United Nations S/AC.44/2004/(02)/23

Security Council

Distr.: General
3 November 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of Poland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Poland to the United Nations presents its compliments to the Security Council Committee and, in accordance with resolution 1540 (2004), has the honour to submit the national report on the implementation of the resolution (see annex). An electronic version of the report will also be sent to the addresses indicated in the note verbale.

04-59375 (E) 281204

Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Poland to the United Nations addressed to the Chairman of the Committee

TABLE OF CONTENTS

I. INTRODUCTION 3

II. POLAND'S ACTIVITY IN THE AREAS RELATED TO THE RESOLUTION.....4

III. EUROPEAN UNION CONTEXT OF POLAND'S NON-PROLIFERATION POLICY.....8

IV. LEGISLATIVE AND ADMINISTRATIVE MEASURES 9

A. Legislation on Weapons of Mass Destruction (WMD) 9

B. Counter terrorism measures.....19

C. Export Controls.....27

D. NBC Defense Capability of the Polish Armed Forces.....30

V. REFERENCES TO THE OPERATIVE PART OF THE RESOLUTION 32

I. INTRODUCTION

Poland has applauded the adoption of United Nations Security Council Resolution 1540 (2004). The resolution states that proliferation of nuclear, chemical, and biological weapons, as well as their means of delivery constitutes a threat to international peace and security. Terrorism and illicit trafficking add new dimensions to this threat. The resolution identifies additional steps that states should take to counter these threats. Poland is determined to meet its obligations under this resolution and is prepared to assist other states in doing the same. Poland has undertaken actions, where necessary, to strengthen and enforce effective laws to prohibit the manufacture, acquisition, possession, development, transport, or transfer of weapons of mass destruction (WMD) by non-state actors. In addition, by implementing the European Union Strategy against Proliferation of Weapons of Mass Destruction and its Action Plan, Poland has further supported the full implementation of the UNSC resolution 1540 (2004). Poland will also continue to enforce domestic controls to prevent proliferation, including physical protection, border, and export, and transhipment controls.

The resolution highlights the need for the international community to take active international and national measures against the proliferation of WMD. Given the impact which the resolution has on all member states of the United Nations, Poland will strive to promote implementation and compliance with this Resolution by all UN Member States.

Universal implementation of UNSC resolution 1540 (2004), which relates both to non-proliferation and disarmament, will strengthen the role of the United Nations Security Council. Active promotion of the resolution reaffirms Poland's commitment to a multilateral approach to security, including non-proliferation, as the best way to maintain international peace and order. The effective implementation and universal support for the UNSC resolution 1540 (2004) will enhance the role of United Nations in countering threats of the proliferation of weapons of mass destruction and means of delivery. Therefore, within the United Nations system, its organs and bodies we shall also seek the ways and means of fostering the resolution. As Minister of Foreign Affairs of Poland, Włodzimierz Cimoszewicz, stated at the recent session of the United Nations General Assembly:"...The Republic of Poland has voiced, on numerous occasions, its deepest conviction that we have to do a comprehensive, strategic review of the role of the United Nations, in its both normative and institutional aspects. It was with this in mind that, on behalf of the Republic of Poland, I had the privilege to put forward two years ago the idea of a New Political Act for the United Nations....". Given the common recognition that proliferation of weapons of mass destruction and means of their delivery is a growing threat to international peace and security, promotion of and support for implementation of the UNSC resolution 1540 (2004), shall constitute an important element in revitalising the role and structures of the United Nations. This would reassure members of the United Nations that the eminent dangers of proliferation of weapons of mass destruction will be addressed in transparent and co-operative manner.

Poland will aim at fostering the role of the UN Security Council and UNSC Resolution 1540 (2004). Poland's actions will include political and diplomatic activities in support of the full and timely implementation of the resolution. Poland is ready to host, by the end of 2005, an international conference on the resolution. The conference aims shall include promoting

dialogue and co-operation on non-proliferation and providing overall support to UNSCR 1540 (2004) implementation.

II. POLAND'S ACTIVITY IN THE AREAS RELATED TO THE RESOLUTION

The increasing danger that terrorists can obtain weapons of mass destruction has reinforced concerns over growing proliferation of weapons of mass destruction. It constitutes a serious threat to international peace and security and can seriously undermine non-proliferation and arms control efforts. It is, therefore, important to build upon and strengthen existing non-proliferation treaties and arrangements.

Poland is a party or member of all treaties and arrangements in the sphere of non-proliferation, including Non-Proliferation Treaty, Comprehensive Test Ban Treaty, Biological and Toxin Weapons Convention, and Chemical Weapons Convention. These multilateral treaties are completed by a number of agreements between the countries which are able to supply technology required for the development of nuclear, chemical or biological weapons and means of their delivery. Since 1957 Poland is also the member of International Atomic Energy Agency (IAEA), at present deputy chairman of the Board of Governors.

In addition, Poland actively participates in new initiatives aimed at preventing proliferation of WMD, namely Proliferation Security Initiative, known also as the Cracow Initiative (announced in Cracow, Poland, on 31 May 2003), Global Partnership against the Proliferation of Weapons of Mass Destruction (2002) and The Hague Code of Conduct against the Proliferation of Ballistic Missiles (2002).

The new international environment which allows for a global access to technologies, information and expertise that can be used both to development and deployment of nuclear, chemical or biological weapons and ballistic missiles, requires also a global approach and consistent implementation of credible export controls.

Within the multilateral non-proliferation efforts there is therefore a global move towards more controls of exports of arms and technologies and expertise in weapons of mass destruction and means of their delivery.

The national export controls providing for both appropriate legislation and mechanism enforcing its implementation make an important contribution to non-proliferation efforts. They constitute a key condition of upholding legal obligations of States undertaken in the global and multilateral non-proliferation regimes not to assist anyone in developing weapons of mass destruction.

Poland has introduced an effective national system of export controls of technology and expertise required for the development and manufacture of nuclear, chemical or biological weapons or unmanned delivery systems. We also co-operate closely with our partners within exports control regimes and through bilateral contacts with other States to extend and promote measures to reduce access to technology and expertise in weapons of mass destruction and means of their delivery.

Poland continues to play its role in promoting thorough and effective implementation of obligations contracted under global disarmament and non-proliferation treaties and international arrangements.

International non-proliferation agreements ratified by Poland:

1. Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare (Geneva Protocol)

2. Treaty banning nuclear weapons tests in the atmosphere, in outer space and under water (Partial Test Ban Treaty, PTBT)

3. Treaty on the non-proliferation of nuclear weapons (NPT)

Note: Poland also ratified Additional Protocol to the Agreement on Safeguards with the IAEA Ratified: 5.05.2000

4. Treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof (Seabed Treaty)

5. Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction (BW Convention)

6. Convention on the physical protection of nuclear material

7. Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Chemical Weapons Convention, CWC)

8. Comprehensive Nuclear-Test-Ban Treaty (CTBT)

Poland is also a member of the following export control regimes:

1) Zangger Committee
2) Nuclear Suppliers Group
3) Australia Group
4) Missile Technology Control Regime (MTCR)
5) Wassenaar Arrangement

Poland actively participates in new initiatives aimed at preventing proliferation of WMD:

1) Hague Code of Conduct against the Proliferation of Ballistic Missiles (2002)
2) Proliferation Security Initiative, (known also as a Cracow Initiative, announced in Cracow, Poland, on 31 May 2003)
3) Global Partnership against the Proliferation of Weapons of Mass Destruction (2002)

Poland in the Cracow Initiative

Poland considers the Cracow Initiative (CI) – Proliferation Security Initiative as an important element in building an effective mechanism to prevent and counter proliferation of Weapons of Mass Destruction, their means of production and delivery. The Initiative serves as an action oriented tool in accommodating non-proliferation mechanisms and structures to new security threats and challenges.

Poland will continue its active engagement in the development and implementation of CI. Our priorities include, inter alia:

1) Promoting regional implementation of the Initiative goals, conducting bilateral meetings and co-organizing exercises in 2005, including a maritime exercise in the Baltic Sea and a ground exercise.
2) Furthering and promoting the results of the First Anniversary PSI Meeting in Cracow, by publishing a booklet and a CD-Rom with a collection of speeches presented during that event.
3) Developing internal mechanism of effective implementation of the Initiative, through the improvement of inter-agency mechanism of cooperation;
4) Building on bilateral relations on interdiction with interested states at the operational level.

First Anniversary Proliferation Security Initiative Meeting

The Meeting was held in Krakow on 31 May – 1 June 2004 with participation of 61 countries and representatives from the EU and NATO. It was agreed that the Proliferation Security Initiative will also be known as the Cracow Initiative.

The Meeting presented the PSI as a global initiative, which develops and receives strong international support. All participants confirmed their will to support the objectives of the PSI and to act in accordance with their national laws and UNSC resolution no. 1540.

The Chairman's Statement from the Meeting stressed that since its launch a year ago the Proliferation Security Initiative has been transformed from a vision into an active network of partnership and practical cooperation. Common principles have been defined. Interdiction capabilities developed and tested. Regional activities undertaken. The Statement reminded that the PSI builds on efforts by the international community to prevent the proliferation of WMD, their delivery systems or related materials and complements existing treaties and regimes. It is consistent with newly adopted United Nation's Security Council Resolution 1540 (2004) of 28 April 2004. The UN Security Council Resolution states that the Council is "*gravely concerned by the threat of illicit trafficking in nuclear, chemical or biological weapons and their means of delivery, and related materials". It calls upon all states "to take co-operative actions to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials*".

With an aim to promote and implement the Initiative's provisions Poland has also hosted a regional conference for the countries of Central and Eastern Europe (January 2004) and organised a first ground interdiction exercise in Wroclaw (April 2004).

Poland's participation in the Global Partnership against the Spread of Weapons and Materials of Mass Destruction

In the Initiative on Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, approved by the G-8 leaders during Kananaskis Summit, on June 27th, 2002 it was decided to support specific co-operation projects, initially in Russia, to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues. The Government of Poland expressed readiness to join this Initiative. Subsequently, Poland was formally invited to the Global Partnership at the G-8 Summit in Evian, in June 2003.

Two Polish projects were included into the frameworks of Global Partnership:

- The Agreement between the Government of the Republic of Poland and the Government of the Russian Federation on co-operation in the field of chemical weapons destruction;
- The concept of the Polish-Russian Technological and Industrial Park in Tarnów, Poland.

Poland in MTCR

During the chairmanship of the Missile Technology Control Regime (MTCR) in the years 2002-2003, Poland undertook intensive efforts aimed at the promotion of non-proliferation of missiles and related technologies and dual use goods and systems restricted by this regime.

In the framework of the outreach activities, the Chair carried out visits to the Democratic People's Republic of Korea, Israel, Cyprus, Bulgaria, Pakistan, Romania, Slovakia, Slovenia, and conducted two rounds of talks with representatives of the government of the People's Republic of China. The Chair presented the basic purpose of the MTCR and elaborated upon the implementation of export licenses, end-user undertakings, inter-partner trade and national space programs. The Chair also stressed the importance of voluntary transposition of the Guidelines and the Technical Annex by non-members to national legislation.

Several visits were paid to countries which applied for MTCR membership. Their main goal was to verify the level of preparations of these states for possible accession to the MTCR. In general terms, the Chair advised the hosts about the membership criteria and procedures, discussed issues of proliferation of missiles and related technology, transit, transhipment, brokering and adherence to the MTCR Guidelines and Technical Annex. During his meetings, the Chair highlighted the goals and priorities of the MTCR: strengthening the work on regional non-proliferation; enhancing outreach activities; consultations with non-member states on ballistic missile issues; enlargement; strengthening the implementation and enforcement of Guidelines and the Technical Annex into national export control systems; use of MTCR as a tool to combat terrorism.

Poland as the sponsor of UN Resolution on the implementation of Chemical Weapons Convention

Poland remains a sole sponsor of the draft resolution on the implementation of the Chemical Weapons Convention. The United Nations resolution on implementation of the Convention supports and promotes its object and purpose as well as its full and effective implementation.

The resolution stresses that the full and effective implementation of all provisions of the Convention is in itself an important contribution to the efforts of the United Nations in the global fight against terrorism in all its forms and manifestations.

At the same time, the resolution underlines that the Convention and its implementation contribute to enhancing international peace and security. It emphasizes that full, universal and effective implementation of the Convention will contribute further to that purpose by excluding completely, for the sake of all humankind, the possibility of the use of chemical weapons. It urges all States parties to the Convention to meet in full and on time their obligations under the Convention and to support the Organisation for the Prohibition of Chemical Weapons in its implementation activities.

III. EUROPEAN UNION CONTEXT OF POLAND'S NON-PROLIFERATION POLICY

Since 1 May 2004, Republic of Poland is a member of the European Union. Therefore, the EU Report on implementation of the resolution complements the present Report.

Poland actively participated in the process of preparing the EU Strategy against the proliferation of WMD and the Action Plan for its implementation. Now, Poland supports full and comprehensive implementation both of the Strategy and Action Plan.

The main areas of Poland's engagement in realisation of the EU provisions against proliferation are:

- promoting universalisation of international non-proliferation treaties;
- supporting the EU non-proliferation clause in bilateral contacts with third countries;
- encouraging other states to give their national input for the development and implementation of provisions of such international instruments like the Cracow Initiative (PSI) and G8 Global Partnership;
- promoting EU regulations on export controls in this regard among partners in the region.

Active measures by the EU (taking active stand on various forums, elaborating different Plans of Action, demarches on universalisation, programmes of assistance etc.) are, in the view of Poland, an excellent tool for the development of strong and unanimous policy in Europe addressing non-proliferation threats.

Poland's membership in the European Union has prompted modifications of legal regulations, mechanisms and procedures relevant to its external trade in armaments and military equipment, as well as dual-use goods and technologies.

Present export controls regulations in Poland are based on the European Council Regulation No. 1334/2000. The same document remains a basis for appropriate parts of the Customs Code.

IV. POLAND'S LEGISLATIVE AND ADMINISTRATIVE MEASURES IN THE AREAS RELATED TO THE RESOLUTION

A. Legislation related to WMD

1. General legal acts

General provisions related to the activities prohibited under international law, including penalties for the use, production, acquiring, selling, storage and transport of weapons of mass destruction are envisaged by the Penal Code of 6 June 1997 (Journal of Laws of the Republic of Poland of 1997, No. 88, item 553). Text of the relevant provisions:
"Chapter XVI. Crimes against peace, humanity and war crimes
Art. 120. A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.
Art. 121. 1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years.
2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in paragraph 1."

Detailed procedures with respect to export control of weapons of mass destruction, related materials and technologies are covered by the Law on external trade in goods, technologies and services of strategic importance for the state security and for the maintenance of international peace and security, adopted on 29 November 2000, with amendments adopted on 2 July 2004.

2. Polish governmental agencies' legal competences on interdiction of WMD and related materials to States and non-States actors, including terrorists

The powers of the bodies

The Internal Security Agency (Agencja Bezpieczeństwa Wewnętrznego, ABW), the Foreign Intelligence Agency (Agencja Wywiadu, AW), the Border Guard (Straż Graniczna), the Police (Policja) and the Customs Service (Służba Celna) are the bodies that are authorised to perform the activities connected with interdiction.

Internal Security Agency

According to Article 5 of The Internal Security Agency and Foreign Intelligence Agency Act of May 24, 2002, the tasks of the Internal Security Agency include identifying, preventing and detecting the crimes of illegal production, possession and trade in weapons, ammunition

and explosives, weapons of mass destruction, narcotics and psychotropic agents in international trade (subparagraph 2 of the present Article)

Within the scope of their tasks, the officers of the Internal Security Agency perform (Art. 21 of the Act):

- criminal intelligence and investigation/inquiry activities in order to identify, prevent and detect crimes and pursue their perpetrators,
- criminal intelligence and analytic/informative activities in order to acquire and process information vital to the protection of state security and its constitutional order.

The Internal Security Agency officers perform the activities only within the scope of competence of the Agency and in this scope they have the powers in criminal proceedings of policemen vested in them, stemming from the provisions of the Code of Criminal Procedure.

According to the Act (art. 23), the Internal Security Agency officers are authorised to detain persons under the circumstances and in the cases defined in the provisions of the Code of Criminal Procedure, to search persons and premises, perform body checks or search through luggage and inspect cargo in the means of land, air and water transport, in case of a well-grounded suspicion that a forbidden act subject to penalty has been committed.

Foreign Intelligence Agency

Art. 6 of the above-mentioned Act elaborates on the tasks of the Foreign Intelligence Agency, which include identifying illicit international trade in weapons, ammunition and explosives, narcotics and psychotropic agents and goods, technologies and services of strategic importance to the state's security, identifying international trade in weapons of mass destruction and the threats related to the proliferation of these weapons and their carriers.

Border Guard

According to the Act on Border Guard of October 12, 1990, its tasks include national border protection; organising and implementing the border traffic control regime; identifying, preventing and detecting crimes and petty offences as well as investigating the perpetrators, within the scope of competence of the Border Guard, in particular: crimes and petty offences concerning crossing the national border or carrying weapons and ammunition across the border, preventing the transportation across the border of nuclear and radioactive materials for which no permit obligatory under other regulations has been granted.

The Police

According to Art. 1 item 2 of the Act on Police of April 6, 1990, one of the most fundamental tasks of the Police is the detection of crimes and petty offences and the pursuit of their perpetrators, as well as performing activities stemming from international treaties and agreements, under the principles and within the scope defined in them (item 3).

In order to identify, prevent and detect crimes and petty offences, the Police perform the following activities within the scope of its duties: criminal intelligence, investigation/inquiry and administrative/order-keeping, aimed at recognising, preventing and detecting the crimes.

According to Art. 15 of the Act, when performing the above-mentioned activities, the policemen have the right to, among others:

- search people and premises under the circumstances and in the cases defined in the provisions of the Code of Criminal Procedure and other acts (Art. 15 item 1 subparagraph 4),
- perform body check as well as search through luggage and inspect cargo in ports and stations, as well as in the means of land, air and water transport, in case of a reasonable suspicion that a forbidden act subject to penalty has been committed (Art. 15 item 1 subparagraph 5).

While performing criminal intelligence activities undertaken by the Police in order to prevent, detect, identify the perpetrators, as well as acquire and preserve evidence of intentional offences prosecuted by a public prosecutor, among others illegal production, possession or trade in weapons, ammunition, explosives, narcotics or psychotropic agents or their precursors and nuclear or radioactive materials, prosecuted by virtue of international treaties and agreements.

Under certain circumstances the circuit court can administer operational control, performed by the Police (Art. 19).

Customs Service

According to the Law on Customs Service of July 24, 1999 (Journal of Law of 2004, no. 156, item 1641), the main task of the Customs Service is to ensure that importation of goods into and exportation from the European Union customs territory is in conformity with the law (Art. 1 item 1).

One of the tasks of the Customs Service is the implementation of the State customs policy within the scope of importation and exportation of goods, which includes identification, detection, combating and prevention of crimes and petty offences that relate to introducing into and removing from the European Union customs territory of goods subject to restrictions or prohibitions, in particular such as: harmful wastes, chemical substances, nuclear and radioactive materials, narcotics and psychotropic agents and weapons, ammunition, explosives and technologies subject to international control, as well as of crimes infringing on the law of protection of cultural goods and intellectual property. (Art. 1 item 2 subparagraph 5).

The performance of the activities accompanying the implementation of the above-mentioned tasks is closely linked to undertaking criminal intelligence and control activities in line with the provisions of the Customs Code and to leading the preparatory proceedings in line with the provisions of the Code of Criminal Procedure and Fiscal Penal Code.

Territorial competence

The above mentioned Polish bodies exercise their powers on the territory of the Republic of Poland, which encompasses the land territory, sea internal waters, territorial waters, as well as the airspace above them. With regard to sea transport, there exists a possibility, according to the United Nations Convention on the Law of the Sea of December 10, 1982, for these bodies to be able to perform their tasks also beyond the borders of the territorial

sea, in the framework of the so-called hot pursuit, in the circumstances when a given sea boat left the territorial waters of the Republic of Poland, and the infringement of law is suspected.

According to the Internal Security Agency and Foreign Intelligence Agency Act, the Internal Security Agency can perform its tasks also beyond the borders of the Republic of Poland. The Foreign Intelligence Agency which usually performs its activities beyond the borders of the State can exercise its powers also on the territory of Poland, provided that such activities are related to its activities beyond her borders.

Criminal liability

With regard to punishing the cases of transfer of weapons of mass destruction or their elements, Art. 121 of the Penal Code is relevant. According to it, the person producing, amassing, purchasing, selling, storing, transferring or sending the means of mass destruction or means of combat, or conducting research aiming at the production or application of such means, is liable to a penalty of imprisonment of duration between one year and ten years. A person who allows for the above-mentioned acts to be committed is liable to the same penalty.

According to the Act on foreign trade in goods, technologies, and services of strategic importance to the state's security and to the maintenance of international peace and security, and on the amendments to certain acts of November 29, 2000, the trade in the relevant goods and technologies without an appropriate permit or against the principles laid out in the permit is penalised in imprisonment of a duration of between one year and ten years (Art. 33 item 1 of the Act).

The list of goods and technologies of strategic importance is included in the Ordinance of the Minister of Economy on the list of goods of strategic importance of October 2, 2002. With regard to weapons of mass destruction, Annex no. 3 contains the list of toxicological agents, "tear gasses", adequate equipment, components, materials and technologies (among others biological agents and radioactive materials adjusted to the use at war to cause casualties in humans and animals, damage to equipment, destruction of plots or natural environment and combat toxic means).

According to the provisions of the Act, trade consists in any transfer across the border of the Republic of Poland of goods of strategic importance, in particular through exportation, importation, transit or conclusion of the contract of leasing, donation, loan agreement, lending for use contract or company contribution, as well as the services of mediation, commercial counselling, assistance in the conclusion of contracts and participation in any form of the above-mentioned activities, including beyond the borders of the Republic of Poland.

According to the Act on Nuclear Law of November 29, 2000, unless an appropriate permit has been granted, it is prohibited to perform the activities connected with the exposure, consisting in producing, processing, storing, transporting or applying nuclear materials, radioactive sources and waste and spent nuclear fuel and the trade in them (Art. 4 item 1 subparagraph 1), as well as importation into the Polish customs territory and exportation out of the Polish customs territory of nuclear materials, radioactive sources and devices generating such sources, and the importation of products of common use emitting ionising radiation, as well as the importation and exportation of radioactive waste and spent nuclear fuel (Art. 62 item 1).

The head of an organisational unit who performs the activities defined in Art. 4 item 1 or effectuate importation or exportation mentioned in Art. 62 item 1 without a required permit or against its terms, is subject to a financial penalty of the amount not exceeding five average monthly salaries in national economy over the period of three quarters of the year preceding the perpetration of the deed, announced by the President of the Central Statistical Office on the basis of the Act on income tax of July 26, 1991.

3. Legislation or other measures to prohibit offences in Poland related to recruitment to terrorist groups and the supply of weapons, including WMD to terrorists

In case of measures to prohibit offences related to recruitment to terrorist groups the key provision is contained in Art. 258 of the Penal Code:

"Chapter XXXII. Crimes against public order

Art. 258. 1. A person who participates in organised group or association, which aim is to commit crimes shall be sentenced to imprisonment for up to 3 years.

2. If the group or association referred to in para. 1 is of military nature the perpetrator shall be sentenced to imprisonment for 3 months up to 5 years.

3. A person who establishes the group or association referred to in para. 1 or 2 or manages such a group or association shall be sentenced to imprisonment from 6 months up to 8 years."

Mechanisms and procedures of control of trade in strategic goods, technologies and services relevant to national security, as well as to the maintenance of international peace and security are also applicable to the issue of the supply of weapons to terrorists. Detailed information including translation of Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and their destruction and Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the maintenance of international peace and security and amending certain laws are attached to the present report.

4. Legislation and procedures existing in Poland for denying safe haven to terrorists activities in nuclear field

Legal means and other arrangements for counteracting proliferation of weapons of mass destruction, used by the **National Atomic Energy Agency**:

a. Treaty on the Non-Proliferation of Nuclear Weapons ratified on 8 March 1972.

b. Agreement between Poland and the International Atomic Energy Agency for the application of Safeguards in Connection with the Treaty on the Non-proliferation of Nuclear Weapons - INFCIRC 179 (based on the IAEA INFCIRC/153) which entered into force on 11 of October 1972. This document establishes the rules for nuclear safeguards in Poland prohibiting access to nuclear materials to non-state entities.

c. **Atomic Law of 29 November 2000, (Journal of Laws of 2001, No. 3 item 18), last update: Journal of Laws of 2004, No. 70 and No. 96**

The Law requires that activities involving use of radioactive materials shall be licensed and requires physical protection of nuclear materials as well as safeguards procedures for their control.

d. **Regulation of Council of Ministers of 27 April 2004 on Nuclear Material Safeguards (Journal of Laws of 2004, No. 98 item 982)** pursuant to obligations contained in the Agreement on Safeguards between Poland and the IAEA, ratified in 1972.
The Agreement embodies main obligation under Non-proliferation Treaty concerning nuclear materials. The Regulation requires from users strict accounting for quantities and types of nuclear materials in use and admitting inspections according to requirements of the accountancy system of the International Atomic Energy Agency.

e. **Regulation of Council of Ministers of 31 July 2004 on Physical Protection of Nuclear Materials (Journal of Laws of 2001, No. 90 item 997),** pursuant to obligations under the Convention of Physical Protection of Nuclear Materials (open for signature in 1980 and ratified by Poland on 3.03.1989) and to requirements for a State System for physical protection of nuclear materials defined in the recommendation INFCIRC/225 rev. 4 of the International Atomic Energy Agency.
The Regulation requires that users of nuclear materials ensure their physical protection according to principles of the IAEA.

Starting 11 September 2001 more stringent procedures of physical protection have been implemented in the facilities of the Institute of Atomic Energy.

f. **Additional Protocol** to the Agreement on Safeguards between Poland and the IAEA -
- INFCIRC 179 Add.1, which was ratified on 5 May 2000 and published in Journal of Laws of 2003, No. 15
The Protocol institutes a system of declarations and inspections for entities where activities having some relevance for nuclear cycle are carried out. Declarations concern e.g. export of equipment and non-nuclear material listed in Annex II.

g. **Law of 29 November 2000, as amended on 2 July 2004, on export control of trade in strategic goods and technologies.** The National Atomic Energy Agency (PAA) provides opinions in the process of licensing exports regarding nuclear goods and technologies as well as dual use items of nuclear relevancy.

5. Poland´s legislation on biological weapons non-proliferation

The Republic of Poland is a party to the Geneva Protocol of 1925 and has also ratified the 1972 Convention on the Prohibition of the Development, Production, Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction. Poland has always respected the relevant legal provisions, and – in consequence – has never produced or stockpiled such weapons on its territory.

Polish legislation addresses biological threats primarily in the context of management of infectious disease epidemics and poisonings, either being the result of natural causes or intentionally perpetrated by terrorist acts or military hostilities.

The following legal acts have particular significance with reference to implementation of the Convention's provisions:

The Polish criminal code incorporates penal sanctions against any persons who - in violation of international law – produce, stockpile, acquire, sell, or transport weapons of mass destruction or other means of combat, or conduct research aimed at producing or using such weapons.

a. The Law on the Customs Code of 19th March 2004 (integrated text, Journal of Laws of 2004, No. 68, item 622)
   - The Law makes it possible to demand explanations and documents if doubts arise concerning the permissibility of the customs destination of the goods in question, including biological materials and toxins.
b. The Law of 29th November 2000 on foreign trade in goods, technologies and services of strategic importance for the security of the state, and also for maintenance of international peace and security (Journal of Laws No. 119, item 1250)
   - The law determines the role of state organs in the national system for strategic goods trade control, including pathogenic micro-organisms, toxins, and equipment for biotechnological processes.
   - However, pursuant to the Ordinance of the Minister of Economy on goods of strategic importance of 2nd October 2002 (Journal of law No. 182, item 1518) most of the above goods are not included in the so-called "import list" and are subject to restrictions only with regard to export from the territory of the Republic of Poland and transit across the Polish territory. A list of pathogens and toxins included in the Ordinance reflects obligations adopted by Poland in the framework of the Australia Group.
   - The legal regulations, rules and procedures for the organization of the transportation of pathogens and toxins are compatible with the international regulations concerning the trade in and transportation of hazardous materials, i.e. the 1957 European Agreement – adopted by the Republic of Poland – on the international transportation of hazardous goods, with subsequent amendments.
   - In order to ensure effective control of possible transfers or translocations of pathogens and toxins, and to accelerate the detection of hazardous biological agents - state border sanitary inspectors have been posted at all border crossings. The organization of 16 Border Sanitary-Epidemiological Stations has also been initiated.
c. The Ordinance of the Minister of Health of 3rd July 2002 concerning characteristics cards for hazardous substances and preparations.
   - The Ordinance was issued on the basis of article 5 paragraph 5 of the Law of 11th January 2001 on chemical substances and preparations (Journal of Laws No. 11, item 84, No. 100, item 1085, No. 123, item 1350 and No. 125, item 1367, and of 2002 No. 135, item 1145). The Ordinance is of a general character and can be applied to micro-organisms and biologically derived toxins.

- The cards must contain information on the threats connected with the use of the hazardous substance or hazardous preparation and instructions on their safe application. In the event of the producer, importer or distributor being based outside the territory of the Republic of Poland, identification of the person responsible for the import of the substance or preparation into the Republic of Poland must also be made in the card. This allows for control of the substance's transfer.

The above provisions have substantial significance for the implementation of Article III of the Convention.

The following legal acts are important for ensuring the security and monitoring of pathogenic micro-organisms and toxins:

a. The Ordinance of the Minister of the Environment of 29th November 2002 concerning the list of pathogenic organisms and their classification, and also the measures required for the respective degrees of containment (Journal of Laws of Laws of 16th December 2002).
   - It contains a listing of pathogenic organisms and their classification in accordance with their ability to cause disease in humans, plants and animals, and also defines the measures required for the respective degrees of containment during execution of procedures in laboratories, greenhouses, animal enclosures, and other procedures during closed use of genetically modified organisms.

b. The Ordinance of the Minister of Health of 11th July 2002 (Journal of Laws No. 140, item 1173) on the marking of packaging of hazardous substances and hazardous preparations.
   - The Ordinance contains specimens of warning markings, formulations defining conditions of safe use of hazardous substances (preparations) and ways of marking the packaging of such substances. The Ordinance does not refer to hazardous biological substances. Upon modification it would constitute a good basis for regulating this issue with regard to biological substances.

c. The Law ("gene law") of 22nd June 2001 (Journal of Laws No. 76, item 811, and of 2002, No. 25 item 253, No. 41. item 365)
   - The Law institutes control of closed use and release into the environment of genetically modified organisms (GMO).

d. The Ordinance of the Minister of the Environment of 6th June 2002 concerning applications for permits to conduct activity involving GMOs. The Ordinance contains detailed regulations dealing with the closed use of GMOs, intended release of GMOs into the environment, trade in GMOs, their export and transit across national territory.
   - These regulations primarily focus on the protection of health and environment, permitting the penalization of prohibited forms of development, production and release into the environment of genetically modified micro-organisms. The issue of intentional development of harmful genetically modified micro-organisms for the purpose of causing harm to the health of humans, animals and plants is not directly addressed.

e. The Law of 11th May 2001 on the health requirements for food and feeding.
   - On the basis of this Law, the Minister of Health determines the requirements with respect to internal control of the health quality and internal control of adherence to hygienic rules, incorporating the system of Hazard Analysis and Critical Control Point (HACCP). It is a system which includes procedures designed to ensure the safety of food through the identification and assessment of hazards from the point of view of the health quality of food and the risk of hazards during all stages of the production and handling of food.
   - The Minister of Health determines the qualifications required for persons involved in the process of production. Knowledge of production safety measures to prevent intentional biological contamination is not required yet.

f. In accordance with the Law on infectious diseases of 6th September 2001 (Journal of Laws of 2001 No. 126, item 1384) the national reference centers for microbiological and serological diagnostics are those entities which have obtained accreditation on the basis of the Law of 28th April 2000 on the system of compatibility, accreditation and amendment of certain laws (Journal of Laws No. 43, item 489, and of 2001 No. 63, item 636), and with which the Health Minister has concluded contracts. So far, the contracts do not incorporate clauses on the storage and monitoring of pathogenic micro-organisms and toxins.

g. The Ordinance of the Minister of Health of 2nd June 2003 (Journal of Laws No. 116, item 1103) on the criteria to be met by organizational units conducting tests on chemical substances and preparations, and on control of the fulfilment of those criteria.
   - The Ordinance was issued on the basis of the Law of 11th January 2001 on chemical substances and preparations (Journal of Laws No. 11, item 84 with subsequent amendments)
   - The Ordinance elaborates the criteria that have to be met by organizational units which conduct – as required by the Law – tests of the physicochemical properties, toxicity and eco-toxicity of chemical substances and preparations. The criteria, contained in Attachment 1, constitute the principles of Good Laboratory Practice. The Ordinance also determines which unit is responsible for the control of adherence by the research units to the principles of Good Laboratory Practice, and the procedure for granting and withdrawing the authorization to conduct such research.
   - The Ordinance needs to be amended with provisions relating to biological agents and toxins.

Despite the absence of specialist legal regulations concerning safety issues connected with pathogens and toxins, there are general regulations in force dealing with the storage and handling of hazardous materials.

f) National legislation on the implementation of the Chemical Weapons Convention

On 22.07.2001, the Law on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction was enacted.

Pursuant to the provisions of the above mentioned Law, the National Authority in Poland, in the meaning of the Convention, is the Minister of Foreign Affairs. The tasks imposed under the

Convention are also performed by the Ministry of Economy and Labour, the Ministry of National Defense and the Ministry of Interior and Administration Affairs. An analysis of tasks assigned to the individual ministries shows that the crucial role falls with the Ministry of Economy, Labour and Social Policy that is responsible for the supervision of implementation and enforcement of the Convention at the national level.

As the National Authority, the Ministry of Foreign Affairs has the following responsibilities:

- Preparation and implementation of the Polish policy guidelines in relation to the OPCW,
- Maintenance of relationships with the OPCW and other States Parties to the Convention with regard to the matters of the Convention,
- Cooperation in preparation of the OPCW inspections in Poland,
- In cooperation with the Ministry of National Defense, providing assistance to other States Parties to the Convention in case of threat of use or the actual use of chemical weapons against them.

Responsibilities of the Ministry of Economy and Labour includes in particular:

- Monitoring of the industry and its compliance with the Convention,
- Monitoring of foreign trade in toxic chemicals listed in the Schedule 1, 2 and 3 of the Convention,
- Preparation of declarations required pursuant to the Convention,
- Taking actions to prepare and carry out the OPCW inspections on the Polish territory.

The Minister of National Defence ensures the compliance of the Polish Armed Forces with the Convention.

The Minister of Interior and Administration Affairs is responsible for enforcing the provisions of the Convention in the subordinated units.

Pursuant to the Polish law, it is forbidden on the territory of the Republic of Poland to:

- develop, produce, process, use, procure, store and transfer chemical weapons to anyone,
- use chemical weapons,
- undertake any military preparations for use of chemical weapons,
- use riot control agents as a method of warfare.

Any activity involving the chemicals included in Schedule 1 of the Convention may be conducted only for purposes not prohibited under the Convention, for allowed quantities and in accordance with the provisions of the Conventions, subject to obtaining the appropriate permission for such activity. The permission can be obtained from the Minister of Economy and Labour (for civilian area) or from the Minister of National Defense (for military area). Export, import, and transit of Schedule 1 chemicals to and from States not Parties to the Convention are prohibited, whereas to and from States Parties to the Convention are permissible only for the purpose not prohibited by the Convention and in permissible quantities, if duly licensed by the Minister of Economy and Labour.

Export, import, and transit of Schedule 2 or 3 chemicals are permitted exclusively in relation to the States Parties to the Convention subject to obtaining the license.

After the Convention of Chemical Weapons entered into force, Poland has fulfilled the following obligations under the Convention:

- Submitted the initial declaration, the declaration on past activities for the years 1997 – 2002 and on anticipated activities for the years 1998 – 2003,
- Notified the establishment of the National Authority of Poland,
- Notified the point of entry/exit for the OPCW inspection teams (there are three such points: the airports in Warsaw, Wroclaw, and Krakow),
- Informed about national implementing legislation,
- Notified the offer of the assistance to the OPCW according to the Article X of the Convention.

In Poland's case, the provisions of the Convention apply mainly to the industrial activities. Hence, even before the Convention entered into force, the preliminary work has been done to identify facilities that may be subject to the Convention. Seventy chemical and pharmaceutical companies were selected, whose business activities are now carefully monitored and controlled under the Convention. Also, research and development institutes and trade companies have been subjected to monitoring.

The legislation was followed by the respective executive legislation such as:

- decree of the Minister of Economy detailing out the permission of business activity where toxic chemicals are used,
- decree of the Minister of Economy concerning specific data to be included in the business reports of entities dealing in chemical substances.

B. Counter terrorism measures

Poland is party to 11 United Nations "antiterrorist" conventions and protocols.

Poland is not yet party to one antiterrorist convention:

- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. Ratification is on the way.

National policy

Terrorism is at present one of the most serious threats the international and national security. Since terrorist actions have global dimension and they create tensions and instability on many level, Poland's policy underlines the importance of strengthening the role of international co-operation, international law and international organisations. Even the best national structures are not able to unilaterally eliminate this threat.

Due to the character of the terrorist threat, Poland is also taking necessary measures at national level to suppress and prevent terrorism. In 2004 the Polish Penal Code was amended and the definition of offence of the terrorist character was introduced. At present, appropriate steps to assure the better institutional co-ordination are undertaken, involving the establishment of the National Co-ordinator on Combating Terrorism.

Legal framework

Penal law

The Polish penal law (Penal Code of the Republic of Poland of 6th June 1997) **penalises individual terrorist acts on the basis of general criminal provisions** (i.e. crimes against peace, humanity and war crimes, crimes against the Republic of Poland, crimes against defence, crimes against life and health, crimes against public security, crimes against safety of transportation, crimes against public order etc.) The provisions of the law prohibit actions of such a character, and sanctions are envisaged reflecting the seriousness of such acts.

Article 115 (20) of the Penal Code of the Republic of Poland contains the definition of an **offence of terrorist character**. It is a criminal act subject to the penalty up to 5 years or more of imprisonment, committed with an aim to seriously intimidate the population or to force the public authority of Poland or other country or international organisation to act or not to act, or to cause considerable interference in the economy or constitutional structure of Poland other country or international organisation.

The above mentioned definition provides for a possibility to introduce more severe sanctions for the perpetrator of an offence of terrorist character (Article 65 (1) of the Penal Code) and to apply the Polish Penal Code to Polish nationals, Polish organisational entities and aliens who committed offence of a terrorist character abroad (Article 110 (1) of the Penal Code).

Article 258 of the Penal Code contains provisions concerning terrorist organisation. It stipulates that whoever participates in an organisation which objective is to commit an offence of terrorist character, shall be punished with 6 months up to 8 years of imprisonment. Whoever forms or leads such an organisation is subject to imprisonment for no less than 3 years.

Procedural rules

There are no specific procedural rules applicable to persons accused of committing terrorist offences. In such cases, **regular provisions of the Code of Penal Procedure shall apply.**

In fighting the organised crime and terrorism a number of special legal instruments can be applied, i.e. special investigating teams, special investigating methods, the use of undercover agents, sting operations, key witness procedures, incognito witness, witness protection programs.

Other relevant legislation

Prevention of financing terrorism

The Law on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism of 16 November 2000 (with amendments) **sets forth standards of the procedure of combating money laundering and financing of terrorism in Poland**. On the basis of the regulations of the Law, General Inspector of Financial Information has been nominated and the Department of Financial Information as Polish Financial Intelligence Unit has been created.

The basic tasks of the General Inspector of Financial Information and the Department of Financial Information are to: collect, keep, process and analyse information according to the procedures provided for in the Law. The tasks encompass, in particular:

- current co-operation with the domestic institutions charged with preventing of money laundering and financing of terrorism,
- current co-operation with domestic and international institutions and organisations associated with the Polish financial system,
- administration of the data received from obligated institutions,
- analysing information on controls carried out by institutions indicated in the Law,
- drafting of relevant legal acts,
- drafting of periodical reports on General Inspector of Financial Information activities.

Due to the Amendment to the Law on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the financing of Terrorism of 27 September 2002 the General Inspector of Financial Information is entitled to:

- prevent financing of terrorism,
- co-operate with foreign institutions dealing with preventing the financing of terrorism,
- perform bank transaction suspension or bank account blockade procedure concerning financing of terrorism,
- transmit to the obliged institution information about entities reasonably suspected of having connections with terrorist acts.

Pursuant to the Law the following institutions are obliged to combat financing of terrorism:

- banks, foreign bank branches,
- brokerage houses,
- banks carrying out brokerage activity and other entities not being banks engaged in brokerage activities,
- entities conducting activity involving games of chance, mutual betting and automatic machine games,

- insurance companies,
- main branches of foreign insurance companies,
- investment funds, investment funds societies,
- co-operative savings and credit banks,
- state public utility enterprise - Polish Postal Service,
- notaries public (for the procedures concerning deals in the property),
- residents engaged in currency exchange,
- Entrepreneurs running: auction houses, antique shops, conducting leasing and factoring activity, activity in the scope of precious and semi-precious metals and stones trade, commission sale, giving loans on pawn (pawnshops), real estate agents.

The General Inspector **collects information** about natural and legal persons who are suspect of the offence of financing of terrorism. The data basis with list of those persons and entities is actualised on the regular basis. On the basis of possessed information the General Inspector transmits to the obliged institutions the information if there is a well-grounded suspicion that they are linked to the offence mentioned above. Obligated institution shall inform the General Inspector forthwith about keeping an account on behalf of entity, mentioned above, and on transactions, to which this entity appears as party.

The General Inspector is entitled to perform: **transaction suspension** procedure, i.e. temporary (period not exceeding 48 hours following the notification) restrictions on the disposition and use of the material assets, consisting in preventing performance of a specific transaction by an obligated institution and blocking of an account procedure, i.e. temporary (period not exceeding 48 hours following the notification) preventing disposition and use of all material assets accumulated on the account, including also by an obligated institution.

Public prosecutor may, by a decision, suspend the transaction or proceed with blocking of account for a definite period, however not exceeding 3 months following the receipt of General Inspector's notification. Pursuant to the Chapter V of Penal Code the court may decide on forfeiture of the objects directly derived from the offence, which have been used or have been supposed to be used for committing the crime. The Law of September 9 2000 amending the Code of Criminal Procedure constitutes the legal basis for incoming and outgoing requests concerning forfeiture. It creates a general possibility for forfeiture.

Under Article 44 of the Penal Code the court shall impose the forfeiture of items directly derived from an offence, unless they are subject to return to the injured person or to another entity. The court may decide on the forfeiture of the items, which served or were designed for committing the offence unless they are subject to the return to another entity. The forfeiture described above shall not be applied if its imposition would not be commensurate with the severity of the offence committed. In such situation the court may impose a supplementary payment to the State Treasury. The court may impose the obligation to pay a pecuniary equivalent of their value in the event the perpetrator has intentionally prevented the possibility of imposing the forfeiture of items specified above. When the court comes to conclusion that the conviction has pertained to an offence of violating a prohibition of production, possession or dealing in or transporting specific items, it may decide on the forfeiture thereof. Property

subject to forfeiture, shall be transferred to the ownership of the State Treasury at the time the sentence becomes final and valid.

Legislation or other measures to prohibit offences in Poland related to recruitment to terrorist groups and the supply of weapons to terrorists

In case of measures to prohibit offences related to recruitment to terrorist groups the key provision is contained in the Article 258 of the Penal Code.

Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for maintenance of international peace and security applies to the issue of supply weapons to terrorists, mechanisms and procedures of control of trade in strategic goods, technologies and services relevant to national security, as well as to the maintenance of international peace and security. Poland is also a party to the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and their destruction.

Legislation and procedures existing in Poland for denying safe haven to terrorists

This is regulated by the Law on Aliens of 13 June 2003. Law on Aliens stipulates that an alien may be refused visa or entry clearance on the territory of the Republic of Poland if there is reasonable suspicion that the alien engages in terrorist activity, participates in such an activity, organises it or is member of a terrorist organisation. Additionally, the Law on Aliens stipulates that an alien may be also refused visa and entry if there is a reasonable suspicion that he carries across the border, without required permission, arms, munitions, explosive materials, radioactive materials or drugs or psychotropic substances, participates in such an activity, organises it or is a member of an organisation engaged in such an activity.

An alien may be denied entry to Poland if his entry or stay is undesired due to the obligations resulting from the provisions of ratified international treaties to which Poland is party or if it is undesired due to other threat to national security and defence or due to the need to protect public order. The Chairman of the Office for Repatriation and Aliens is, on the basis of the subject law, the competent authority to maintain the list of undesired persons. The list, which is updated on a regular basis, is forwarded to diplomatic missions and consular offices of Poland abroad. Every visa application is verified with the list and undesired persons will be denied visa or permit for entry. The co-operation between competent authorities ensures strict implementation of requirements of the international law binding Poland in this matter. For the same reasons, on the basis of Article 52 an alien may be expelled from the territory of Poland, on the basis of administrative decision issued by the competent authority.

Legislation and procedures existing in Poland to prevent terrorists acting from Polish territory against other states or citizens

In this case provision of the Penal Code shall be applicable as in relation with the response to paragraph 2 (a), namely Article 258 (Chapter XXXII - Crimes against public order).

Legislation on Firearms, Explosives and Provisions common to firearms and explosives

The Law of 21 May 1999 on arms and munitions determines detailed principles of issuance and withdrawal of permits for arms, acquisition, storage, disposal and deposition of arms and munitions, transport through the national territory, import and export of arms and munitions and principles governing the possession of arms and munitions by aliens. The acquisition and possession of firearms is subject to special permit issued by competent Police organ. The Law specifies cases where permits cannot be issued to persons who do not meet specific requirements or infringed conditions and obligations set forth in the Law. The same conditions apply to the withdrawal of permits. Firearms should be registered and the owner has to have special document confirming possession of arms. The provisions of the Law apply to aliens accordingly. There are specific provisions in the Law related to possession of arms and munitions in case of members of diplomatic missions and consular offices, other persons with equal status, who can possess arms and munitions on the basis of international agreements or the principle of mutuality. In this case the possession of arms is subject to temporary permit issued by competent Police organ. The Law contains penal sanctions and provisions on seizure of arms and munitions. There are executive regulations to that Law, which relate *inter alia* to: types of especially dangerous arms and munitions in case of which permit may be issued; medical and psychological examination of persons who apply for or possess permit; model declaration of importation from abroad of arms and munitions and procedure for transmission of information to the Police on importation of arms and munitions by customs services; procedure and conditions for the issuance of permits for arms to the members of diplomatic missions and consular offices and persons having equal status; detailed principles of deposition of arms and munitions; model required documents, etc.

The Law of 21 June 2002 on explosives for civilian use determines principles of issuance and withdrawal of permits for acquisition and storage of explosives, basic requirements in relation with explosives introduced to trade, principles governing the transport of explosives and its control, conformity assessment procedures and marking of explosives. Acquisition and storage of explosives for civilian use requires permit, issued by chief of provincial administration (representative of the Government in the province), competent for the registered office of the requesting person. The Law specifies the information required for the issuance of permit, conditions to be met by these persons to obtain the permit as well as the cases when the permit should be denied or withdrawn. Transport and transit of explosives requires consent of the Minister for Economy and Labour. There are executive regulations to that Law, which determine *inter alia*: requirements of training and examination of persons, who have access to explosives, model register of explosives, and model request for permit. There are separate legal provisions relating to the possession and use of firearms and explosives by

state bodies and their officers responsible for the maintenance of national security and public order as well as Armed Forces.

The provisions concerning the principles of economic activity relating to the manufacturing and trade with explosives, arms, munitions and products and technologies of military and police purposes are contained in the Law of 22 June 2001. Executive regulations to that Law specify: conditions of sale of, scope and manner of verification of consistency with these requirements, requirements as to quality assessment, registration of these sensitive materials, and principles of management in terms of environmental protection and protection of human life and health.

Institutional framework

In Poland there are two agencies playing a leading role in anti-terrorists actions i.e. **Internal Security Agency** (ABW) and the **Police**. Although there is a clear division between their responsibilities, the two services co-operate very closely, since terrorism is a serious threat of public concern.

The internal Security Agency is responsible for issues connected with the protection of the State's internal security and its constitutional order. The main tasks of the Agency include, among others, combating all kinds of threats to the State's internal security, such as the crimes of espionage and terrorism, ABC proliferation and drug trafficking on an international scale. The Agency has investigation powers allowing it to conduct various legal procedures.

The Police, who are generally responsible for public order, have within its structures the Central Investigation Bureau (CBS), which deals with the most serious crimes, and Antiterrorism Task Force (ZOA KGP).

Other institutions involved in anti-terrorist activities are the following:

- the Foreign Intelligence Agency (AW)
- the General Inspector of Financial Information (GIIF)
- the Military Intelligence Services (WSI)
- the Border Guard (SG)
- the Government Protection Bureau (BOR)
- the Custom Service

Additionally, two other bodies, which do not take part in operational activities, should be mentioned:

The National Security Council (RBN), which is an advisory body to the President of the Republic of Poland, responsible for setting general plans and objectives concerning security, international relations and armed forces.

The National Security Bureau (BBN), which is a part of the President's Chancellery, provides technical and merit support to the RBN and plays a role of a think-tank.

The co-ordination of the activities of various bodies and agencies and monitoring the threat of terrorism is the task of the Inter-ministerial Centre for Organised Crime and International Terrorism, which is an auxiliary body to the Prime Minister. The Government Intelligence Community acts as the Prime Minister's advisory body and is responsible for foreign

intelligence. Its main task is to exchange information, analyse intelligence and producing threat assessments.

To ensure better consolidation and better operational co-ordination of terrorism-related work and simplify the exchange of information and intelligence, the Counter Terrorism Task Force for Co-ordination of Operational Cases was established.

The Crisis Management Team consists of the representatives of appropriate Ministries and is responsible for actions taken with regard to crisis situations (e.g. terrorist's attack, flood etc.).

The task of The Team for Co-ordination of Operational Activities regarding Combating Political Terrorism is to exchange information about terrorist threat and persons suspected of terrorist activities.

The Task Force on acts of terror with explosives deals with analysis of the threat of terrorist activities with the use of explosives.

International Co-operation

Poland regards international co-operation in the fighting of terrorism as a matter of a great importance. Since terrorism is a phenomenon of international dimension, the proper commitment on the international level is essential to suppress the terrorists' activities.
From Poland's point of view fostering the legal co-operation between states is crucial. Therefore Poland is a party to many bilateral agreements concerning extradition, mutual assistance and countering organised crime. Poland is also a party to a number of multilateral treaties devoted to that subject.

Poland **signed all twelve United Nations Anti-Terrorism Conventions** and has ratified 11 of them. At present the ratification procedure of Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March is the pending issue. The ratification process of Amending Protocol to the European Convention on the Suppression of terrorism is in its final stage and the instrument of ratification will be handed this year.

Poland has implemented 8 special recommendation of the FATF and is pursuing an active policy with an aim to join the Group.

Measures in the EU framework

Poland **supports strengthening anti-terrorist co-operation on the EU level**. Poland shares the views expressed in the European Council Declaration on the fight against terrorism and Revised Plan of Action on combating terrorism and introduces necessary changes in its national law. Moreover due to **implementation of the Framework Decision on European arrest warrant**, the appropriate changes to the Code of Penal Procedure were introduced in May 2004.

Poland is of the opinion that the co-operation on the European level, exchange of information and experience between States and appropriate legal solutions are playing a key role. Taking into account free movement of people, services, capital and ideas it is impossible

to observe security issues only from the national point of view. In that case the broader perspective is indispensable.

C. Export Controls

The control of foreign trade in strategic goods is regulated by the 29 November 2000 Law on external trade in goods, technologies and services of strategic importance for national security and maintenance of international peace and security, recently amended on 2 July 2004. The amendments mainly resulted from the fact, that starting from 1 May 2004 the European Council Regulation No. 1334/2000 of 22 June 2000, setting up a Community regime for the control of export of dual-use items and technology is directly binding in the Polish legal system.

Summarising, the export control regulations in Polish law:

- introduce general and global licences covering export, import or transit of goods or technologies subject to control,
- extend control to commodities which do not figure on control lists if there is no certainty about their end use,
- implement control of trade in "intangible" technologies, i.e. which can be transmitted by way of computers, fax machines and telephones, or conveyed during training courses,
- make possible involvement of a company in the exercise of control of foreign trade in strategic goods,
- lay the groundwork for development of partnership and co-operation of business operators with government administration.

Important is that the ban on foreign trade in strategic goods and services remains in force unless a business operator has complied with all terms and restrictions laid down in the said law, in other laws, as well as other international agreements and arrangements. A privilege of trade in sensitive goods – which takes the form of a licence – can be withdrawn or changed, or else, the enterprise owner may be denied it at all.

Pursuant to the aforesaid law, the Ministry of Economy and Labour demands that a Polish entrepreneur submits an end-user's international import certificate or end-user statement, confirmed by the relevant government authorities of a foreign importer. The end-user's statement is issued by a foreign end-user, and its contents must meet the requirements of the Ministry of Economy and Labour. This statement has to bear a confirmation of both a foreign importer and the authorities of a country of destination. The document is used in all export transactions with the aim of transferring responsibility on to foreign trading partners and their authorities, as well as safeguarding goods against being forwarded to unauthorised destinations.

A new law regulating the country's foreign trade in goods, technologies and services of strategic relevance for its security, as well as for the maintenance of international peace and

security came in force on 1 January 2001. This law incorporates mechanisms of the European Union Code of Conduct in Arms Export, which in June 1998 won approval from the EU's General Affairs Council. The idea of Poland's foreign trade control system is underpinned by the concept of industrial enterprises, trade companies and research and development centres running their own, internal control systems. Control on the ground is to be organised by Polish manufacturers, exporters, users, research and development centres, etc. Control has to be exercised by brokers, dispatchers, hauliers, operators of cargo-handling plants and trade consultants on their own turf. The track record of mature trade control systems highlights motivations of manufacturers or exporters and the two-way flow of information between the government administration, business people and scientists. The aim is to deploy control mechanisms and procedures, which meet international standards.

Poland's membership in NATO and in the European Union has prompted modifications of legal regulations, mechanisms and procedures relevant to its foreign trade in armaments and military equipment, as well as dual-use goods and technologies.

Present export controls regulations concerning dual-use goods in Poland are based on the European Council Regulation No. 1334/2000, updated by the Regulation No. 1504/2004 of 19 July 2004 (update of control list). In respect of arms export, national control list is applicable. As far as control of foreign trade in dual-use goods is concerned the following changes were introduced:

- withdrawing from licensing of import of dual-use goods and introduction of import monitoring for some items connected with telecommunications and "information security", included in the category 5 of the Community dual-use control list (Annex I to the Council Regulation No. 1334/2000), due to national security reasons;
- direct application of the control list included in Annex I to the Regulation No. 1334/2000;
- inclusion of control of technical assistance and brokering into provisions covering control of services related to all goods of strategic relevance following the Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering and Joint Action of 22 June 2000 concerning control of technical assistance related to certain military end-uses;
- introduction of provisions enabling use of the Community General Export Authorization;
- issuing of national general authorizations in the form of regulation in accordance with indications set out in Annex IIIb to the Regulation 1334/2000;
- issuing individual and global licenses on forms consistent with Annex IIIa to the Regulation 1334/2000;
- possibility of granting global licenses for export of spare-parts and some kind of services (mainly for forwarding services);
- application of prior registration of companies before the use of the Community General Export Authorization and general national authorizations;
- removing all charges for granting licenses and all certificates provided in the law.

Import control

The Minister of Economy and Labour, pursuant to the law of 29 November 2000, issues an import certificate or confirms the statement of end user, only when the authorities of a

foreign importer's country require so. The law further stipulates that the international import certificate and the end-user's statement are documents to be submitted to the appropriate authorities beyond Poland's borders. They confirm importer's credibility and are subject to control of the relevant agencies. Minister of Economy and Labour refuses issuance of an import certificate or denies a confirmation to end-user statement in cases of lack of confirmation of control being exercised over imports to Poland or no guarantee that trade in strategic goods was conducted in accordance with the provisions of the law.

Separate procedures exist in cases of control of trade in goods, which are not included on control list and goods in transit. A system of control of foreign trade in goods, technologies and services of strategic importance for the security of the state and international peace and security came into effect on 1 January 2001. By introducing a control system imposing restrictions on deliveries of arms, military equipment as well as goods and technologies which might be used by terrorist organisations for production of mass destruction weapons Poland supports international community in a common policy to save international peace and security. The Ministry of Economy and Labour has launched a series of training schemes for businessmen. The said training schemes cover university-level schools, research and development and technological centres.

Issuance of licences

Polish current legislation provides for the following licenses, issued by the Minister of Economy and Labour:

- individual licenses: covering a specific goods or a service pertaining to such, and a country, with which the particular entrepreneur may enter into trade,
- general licenses in the form of regulation: covering a type or a category of dual-use goods, in which trade may be conducted with one or more countries specified therein,
- global licenses: covering a type or a category of dual use goods, in which trade may be conducted by the particular entrepreneur with specified one or more partner countries,

Licenses are required for:

- export and transit of dual use goods as well as for export, import and transit of munitions and military equipment,
- grant, loan, leasing or other form of disposal of those goods to other persons,
- forwarding services, shipment and loading services,
- all associated services including brokering and technical assistance,

For trade or services in connection with munitions, solely individual licenses can be issued.

Licenses are granted only to those companies which have introduced internal control system.

In licensing process Minister of Economy and Labour co-operates with the Minister of Foreign Affairs, Minister of National Defence, Minister of Finance, Minister of Internal Affairs

and Administration, Head of the Internal Security Agency, President of the National Atomic Energy Agency and Head of Foreign Intelligence Agency.

No licence can be issued without opinions given by the above institutions.

Minister of Economy and Labour refuses to issue an export, import or transit licence, if:

- the pursuit of such trade would be in breach of obligations assumed by the Republic of Poland under international agreements,
- the issuance of a licences is incompatible with the interests of the foreign policy of the Republic of Poland, national defence or security-related considerations, or important economic interests of the Republic of Poland, or
- the applicant does not make any warranty as to the lawful conduct of his operations,
- there is a risk the end use or destination of strategic goods can be changed, and
- the applicant has been in breach of regulations governing trade in strategic goods.

Minister of Economy and Labour can at any time on the basis of administrative decision revoke or alter a licence already issued to an individual operator if at least one of the circumstances listed above come into play, or the operator action is in breach with the terms laid down in the licence.

Internal system of control

Pursuant to the 29 November 2000 law, the enterprise owner is under the obligation to check whether:

- the end-user intends to use the armaments for breaking or suppressing human rights and fundamental freedoms,
- the arms he is about to deliver will raise a threat to peace or in some other way will contribute to upsetting the region's stability,
- the country of ultimate destination supports, facilitates or encourages terrorism or international crime,
- the arms to be exported can be used for a purpose other than meeting the legitimate defence and security-related needs of the receiving state.

To comply with the above requirements, the contractor is duty-bound to create and apply an internal control system and management of trade in strategic goods to help him run each and every transaction. An internal control system, being an instrument for safeguarding a company against actions incompatible with national trade control requirements and relevant international arrangements was introduced. Fitted with their own, internal control systems, Polish firms are able to protect both their commercial interests and their respective images internationally.

D. NBC Defence Capability of the Polish Armed Forces (*peace time*)

The position of Ministry of National Defence regarding the risks posed by the proliferation of nuclear, biological and chemical weapons and their means of delivery derives from the fact that nowadays there are increasing threats related to the spread of WMD and possibility of their terrorist

use. Polish Armed Forces fully contribute to the work arising from NATO NBC Defence Initiatives taken at Prague Summit, and have offered a national support in this field.

Polish Armed Forces are interested in developing measures aimed at limiting the threat of proliferation of weapons of mass destruction. Therefore, the Polish NBC Defence Staffs and Units are obliged to be ready to protect and support troops and civilians when necessary.

The main mission of the Polish NBC Defence Corps is:

- to protect of the forces and allowing them to fight and win under NBC (TIM, LLR) threat or environment;
- to implement the Convention on the Prohibition of Chemical Weapons in Armed Forces.

NBC Defence units conduct special NBC tasks. The main of them are:

- protection against the effect of the use NBC weapons;
- NC monitoring and reconnaissance;
- NBC warning and reporting;
- analysing and forecasting the effects of NBC strike;
- rescue, emergency-evacuation operations;
- decontamination.

In peace time, Polish Armed Forces include the following types of chemical units:

1. NBC Regiment consisting of reconnaissance, decontamination, smoke, and logistic subunits.

   The unit is prepared for:
   - providing NC reconnaissance, NBC warning and reporting, decontamination, large smoke area support for elements of a central subordination or corps;
   - providing rescue operation in toxic industrial environment.
2. NBC Battalion consisting of NC reconnaissance, decontamination, smoke, and logistic subunits. The unit is prepared to conduct the same tasks as regiment.
3. NBC Companies designed for Armour/Mechanised Divisions, Main Air Force Bases and Main Navy Bases.
4. NBC Platoons designed for Armour/Mechanised Brigades.

Although the main task of troops is to be ready for war. Their power and technical and organisational potential should be useful also during the peace time. It certainly also refers to chemical troops or the NBC Defence system as a whole. One of the main peace-time roles for this system results from Chernobyl disaster is monitoring the level of radioactive pollution environment.

Basing on the current documents, the Polish Armed Forces Early Warning System was established as a part of National Measurement Network.

This system comprises:

- an automated radiological contamination measurement network;
- analytical centres;
- data collection and situation analysis units.

The automated radiological contamination measurement network consist of 13 SAPOS 90 MS devices. The meters are located within the on-duty staffs and military units connected to a dispatch computer in the NBC Area Control Centre.

Other sources of hazard and in result task for NBC Defence units are Industrial Toxic Materials. Over the country we can find chemical plants, storage or various other installations with TIM are located and create a real threat of contamination in case of terrorist's attack.
In 1989 Radiological and Chemical Emergency Teams were established in order to survey and neutralise the results of chemical and radiological accidents. The teams may operate within military installations and also provide the help for civilians. Altogether there are 4 teams which operate on Military Districts and Navy area of responsibilities.
Each team consist of:

- an operational group consisting of NBC, engineering and medical specialists – the OG which task is to manage the whole team;
- data collection and situation analysis group;
- rescue group and NBC, engineering and medical units and others if needed.

The Polish Armed Forces both in peace and war time are equipped with individual respiratory and skin protective gear. Mainly, the personnel uses filtration masks MP-4. However, High Readiness Forces are equipped with MP-5 masks. Apart from that, soldiers are equipped with protective overalls (type OP-1) that protects skin against impacts of WMD effects. Special units, such as NBC and some other units are equipped with protective overall - L-2 based on rubberised cotton clothing. The main units of High Readiness Forces are equipping with new protective suit (FOO) based on *SARATOGA* fabric. Moreover, Military Group of Chemical Rescue Specialists is issued with gas-proof protective clothes and oxygen masks that meet the standards of western rescue services. Collective NBC protection is implemented through the use of armoured vehicles and shelters equipped with filtration devices. There are programs conducted research and development on unhardened collective protection ref. NATO standards.

V. REFERENCES TO THE OPERATIVE PART OF RESOLUTION

1. Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

All activities on any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery are prohibited under the Polish law.

2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

The Polish Penal Code incorporates penal sanctions against any persons who - in violation of international law – produce, stockpile, acquire, sell, or transport weapons of mass destruction or other means of combat, or conduct research aimed at producing or using such weapons.
According to the **Penal Code** (Journal of Laws No. 88, item 553), Chapter XVI. Crimes against peace, humanity and war crimes, Art. 120 **states that:** A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

In Art. 121.1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years.

The same penalty shall be applicable to a person, who allows the commitment of the act referred to in paragraph 1.

Atomic Law of 29 November 2000, (Journal of Laws No. 3 item 18 of 2001; last update: Journal of Laws No. 70, No. 96 of 2004) establishes licensing system and explicitly forbids development of nuclear weapons

Accordingly to Article 4 of the Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (J. of L. No. 76, item 812) it is prohibited in the territory of the Republic of Poland:

1) development, production, manufacturing, processing, consumption or otherwise acquiring, collecting, stockpiling, sale or transfer to anyone of chemical weapons,
2) use of chemical weapons,
3) engaging in any military preparations to use chemical weapons,
4) use of riot control agents as a method of warfare,
5) abetting or assistance in engaging in the activity prohibited under subparagraphs 1-4 above.

3. Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:
(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;
(b) Develop and maintain appropriate effective physical protection measures;

Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security introduces general and global licences covering export, import or transit of goods or technologies subject to control and, in particular:

- extends control to commodities which do not figure on control lists if there is no certainty about their end use,

- ushers in control of trade in "intangible" technologies, i.e. which can be transmitted by way of computers, fax machines and telephones, or conveyed during training courses,
- makes possible involvement of a company in the exercise of control of external trade in strategic goods,
- lays the groundwork for development of partnership and co-operation of business operators with government administration.

Domestic controls in the nuclear sphere are based on legal acts:

1. Agreement between Poland and the International Atomic Energy Agency for the application of Safeguards in Connection with the Treaty on the Non-proliferation of Nuclear Weapons - INFCIRC 179 (based on the IAEA INFCIRC/153) which entered into force on 11 of October 1972. This document establishes the rules for nuclear safeguards in Poland prohibiting access to nuclear materials to non-state entities.
2. Atomic Law of 29 November 2000, (Journal of Laws No. 3, item 18 of 2001; last update: Journal of Laws No. 70, No. 96 of 2004)

The Law requires that activities involving use of radioactive materials shall be licensed and requires physical protection of nuclear materials as well as safeguards procedures for their control.

3. Regulation of Council of Ministers of 27 April 2004 on Nuclear Material Safeguards (Journal of Laws No. 98, item 982 of 2004) pursuant to obligations contained in the Agreement on Safeguards between Poland and the IAEA, ratified in 1972.
4. Regulation of Council of Ministers of 31 July 2004 on Physical Protection of Nuclear Materials (Journal of Laws No. 90, item 997 of 2001), pursuant to obligations under the Convention of Physical Protection of Nuclear Materials (open for signature in 1980 and ratified by Poland on 3.03.1989) and to requirements for a State System for physical protection of nuclear materials defined in the recommendation INFCIRC/225 rev. 4 of the International Atomic Energy Agency. The Regulation requires that users of nuclear materials ensure their physical protection according to principles of the IAEA.

Starting 11 September 2001 more stringent procedures of physical protection have been implemented in the facilities of the Institute of Atomic Energy.

Domestic controls in the chemical sphere are based on the Law of 22 June 2001 on the implementation of the CWC. Its Article 5 states that "The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in Schedule 1 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 1", may be carried out only for the purposes not prohibited under the Convention and in the amounts allowed for therein and in accordance with its requirements".

Any activity involving the chemicals included in Schedule 1 of the Convention may be conducted only for purposes not prohibited under the Convention, for allowed quantities and in accordance with the provisions of the Conventions, subject to obtaining the appropriate permission for such activity. The permission can be obtained from the Minister of Economy, Labour and Social Policy (for civilian area) or from the Minister of National Defense (for military area). Export, import, and transit of Schedule 1 chemicals to and from States not Parties to the Convention are prohibited, whereas to and from States Parties to the Convention are permissible only for the purpose not

prohibited by the Convention and in permissible quantities, if duly licensed by the Minister of Economy and Labour.
Export, import, and transit of Schedule 2 or 3 chemicals are permitted exclusively in relation to the States Parties to the Convention subject to obtaining the license.

Domestic controls in the biological sphere is based on various legal acts, including Penal Code, Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security, and others.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law

Law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in nuclear, chemical, or biological weapons and their means of delivery are covered by three agencies, i.e.: Border Guard, Custom Service and Internal Security Agency.

Border Guard

In order to protect from illegal entry (transit) of radioactive sources and substances, nuclear, chemical, biological materials constituting a potential threat to human life and health, in October of 1990 chemical and radiometric (ecological) control of individuals and goods was introduced in all border crossing points. The system of this control is being systematically expanded. BG officers (specialists in radiation control) undertake this control in border crossing points based on the following documents presented by the carrier or forwarding agent: bill of lading, permit for transportation or export, export declaration, customs application, SAD form, etc. The officers also undertake external inspection of vehicle and freight, its sign-shields according to binding patterns and check the level of contamination with technical equipment.

According to the Act on Border Guard of October 12, 1990 (Journal of Laws no. 78, item 462 with later amendments), one of the tasks carried into effect by the BG is "preventing transportation, without the permit required in accordance with separate regulations, through the state border of waste, harmful chemical substances also nuclear and radioactive materials, as well as polluting border waters".

Furthermore BG organizational border units share action plans and cooperation plans with bodies and institutions functioning in border crossing points in event of employment of mass destruction weapon, threat to human life and health or natural environment within the territorial range of the border crossing point. These plans include:

- types of threats,
- principles of conduct in threat situations,
- utilization of own forces and resources,
- notification and communication system.

Installation of stationary equipment for contamination control begun in the year 1990 by placing so-called radiometric gates in border crossing points. With time radiometric gates were modernized or adapted to specific conditions e.g. in airports and sea ports.

Currently the total number of stationary equipment for contamination control of persons and vehicles on the state border totals 182 sets, including 8 devices of the new PM 500 type construction that can detect neutrons. These tools have been manufactured in Poland.

Custom Service

The Law of 24 July 1999 on Custom Service (Journal of Laws of 2004, No. 156, item 1641) remains a legal basis for Custom Service activity, in the implementation of particular tasks, emerging from two acts:

- Council Regulation (EC) no 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology
- Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security

Changes to the Law on Custom Service, done after Poland's accession to EU, enables CS to conduct investigation activities.

Internal Security Agency

The legal basis for Internal Security Agency (ABW) is Law of 24 May 2002 on Internal Security Agency, which, in its art. 5 regulates ABW role in countering WMD proliferation. It includes:

1. Recognizing, preventing, and exposing crimes of:
   - Illicit production and trade in goods, technologies and services of strategic importance (including dual-use goods)
   - Illegal production, possession and trade in arms
2. Performing intelligence and investigative activities in order to recognize, prevent and expose mentioned above crimes;
3. Prosecuting the perpetrators of the crimes mentioned above;
4. Acquiring, analyzing, processing and forwarding to appropriate authorities information which may be vital to the fight against WMD proliferation;
5. Investigating forms and methods of national and international individuals illegal activity;
6. Investigating individuals, groups and organizations suspected or identified as being involved in proliferation-related activity and countering threats arising from their activity;
7. Collecting intelligence about any proliferation- related activity on Polish territory;
8. Direct co-operation with other Polish law enforcement agencies;
9. Co-operation and exchange of information with partner services.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and

enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

The tasks under paragraph 4(d) of the resolution 1540 are implemented on the basis of Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security.

4. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

Poland is a State party to the all above mentioned international treaties and fully implements their provisions.

6. Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Poland, as an active member of the Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group, Zangger Committee and Wassenaar Arrangement develops and regularly updates its national export control lists.

7. Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Poland is willing to offer its assistance in implementing the provisions of the resolution. Our activity in this regard will be directed to the States of the region of Central and Eastern Europe. We are ready to provide assistance in building legal and administrative infrastructure, sharing with implementation experience, and training respective national authorities.

8. Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Poland promotes universalisation of multilateral instruments on non-proliferation. As a next Chair of the Conference of the States Parties to Chemical Weapons Convention, Poland will pay a special attention to this subject.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Poland has begun a study to review its obligations under BTWC with an aim to revise and – if necessary – to adopt new, regulations on implementation the BTWC provisions, accordingly to the review process conducted in Geneva.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Poland fully supports the aims and objectives of all international treaties and promotes full compliance to their provisions.

As a next Chair of the Conference of the States Parties to Chemical Weapons Convention, Poland will take measures to strengthen efforts for promoting objectives of CWC.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Poland's authorities (Ministry of Economy and Labour) conduct a series of actions with the aim to:

- involve Poland's manufacturers, merchants, service providers and scientific research facilities in the actions aimed against those organisations who seek to instigate local or regional armed conflicts.
- involve Poland's industry in joint efforts against identified or possible terrorist organisations in pursuit of international peace and stability.
- harmonize actions taken by the Poland's industry and the Polish administration with those taken by the Member States of the EU to prevent proliferation of weapons of mass destruction and preclude the destabilizing effects of stockpiling of conventional weapons, as well as to forestall uncontrolled transfers of dual-use goods and technologies that can be detrimental to regional and global peace and stability.

- Following the example set by the EU and NATO Member States - to create an environment conductive to a dialog and information exchange between the industry and governmental administration in the field of control of international trade in strategically relevant goods.

9. Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

Poland is ready to host, by the end of 2005, international conference on the UNSC resolution 1540 (2004). The conference aims shall include promoting dialogue and co-operation on non-proliferation and providing overall support UNSCR 1540 (2004) implementation.

A detailed proposal will be presented in due course.

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Poland takes appropriate actions to prevent illicit trafficking in WMD. Our participation in the Cracow Initiative (PSI) is aimed, inter alia, at efforts to build an internal mechanism of effective implementation of the Initiative, including improvement of inter-agency mechanism of cooperation in the sphere of illicit trafficking prevention.

United Nations S/AC.44/2004/(02)/24

Security Council

Distr.: General
2 November 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Korea to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the first report of the Government of the Republic of Korea in accordance with paragraph 4 of resolution 1540 (2004) (see annex).

04-59021 (E) 151204

Annex to the note verbale dated 27 October 2004 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Chairman of the Committee

National Report of the Republic of Korea on the Implementation of United Nations Security Council Resolution 1540

Introduction

1. Security Council Resolution 1540 is a substantial measure by the Security Council, as the primary organ responsible for the maintenance of international peace and security, to address the new threats to international security posed by terrorism and the proliferation of weapons of mass destruction (WMD). The government of the Republic of Korea (ROK) believes that the Resolution will contribute greatly to the prevention of the proliferation of WMD.

2. Since the ROK government has been a very active participant in international efforts to stem the spread of WMD, it strongly supports the Resolution and is faithfully implementing it.

3. As a party to most of all relevant treaties of international disarmament and non-proliferation and multilateral export control regimes, the Republic of Korea has the necessary legal and administrative systems in place to ensure compliance with the Resolution and it will continue to complement and develop those systems.

Reports on each Operative Paragraph of the Resolution

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

The Republic of Korea does not and will not provide any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, or biological weapons and their means of delivery.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as

well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

Actions Taken:

- According to the Criminal Laws of the Republic of Korea, acts of terrorism are deemed serious offenses. In such legislation the Republic of Korea prohibits any non-state actor from manufacturing, acquiring, possessing, developing, transporting, transferring or using nuclear, chemical or biological weapons and their means of delivery, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice or assist them.

- The Financial Transaction Reports Act and the Proceeds of Crime Act establish the offence of financing the abovementioned acts of the proliferation of weapons of mass destruction mentioned in the Operative Paragraph 2 of this Resolution.

- In addition to these laws, the following special laws regulate proliferation acts of each category of WMD and its delivery system.

  - (Nuclear weapons) The Atomic Energy Act and the Act for Physical Protection and Radiological Emergency establish the offence of manufacturing, acquiring, possessing, developing, transporting, transferring, and using nuclear weapons. The maximum penalty is life imprisonment.

  - (Chemical Weapons) The Act on the Control of the Production, Export, Import, etc. of Specific Chemicals for the Prohibition of Chemical Weapons 1997 establishes the offence of developing, producing, stockpiling, transferring or using chemical weapons or assisting or inducing any other person to do so. The maximum penalty is life imprisonment.

  - (Missiles) Since missiles are designated as defense material pursuant to the Act on Special Measures for Defense Industry, any missile-related activities are restricted if not approved or permitted by the government of the Republic of Korea.

Planned Actions:

❍ Nuclear Weapons

- The government of the ROK plans to take additional measures in order to place more stringent restrictions on the assisting or financing of the nuclear proliferation-related activities provided in Operative Paragraph 2 of this Resolution.

❍ Biological Weapons

- In addition to the regulation by the Criminal Laws, the government of the ROK is considering enacting a special law to independently regulate activities relating to biological weapons.

❍ Missiles

- The 'Means of Delivery of Nuclear, Chemical, and Biological Weapons Regulation Act' is to be enacted to regulate WMD delivery systems.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall;

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures.

Actions Taken:

- In accordance with the Atomic Energy Act, the Act for Physical Protection and Radiological Emergency, and the ROK-IAEA Safeguards Agreement 1975, the ROK maintains an effective control and management system for all nuclear materials and facilities. To further strengthen the control and supervision of nuclear activities, the government of the ROK established an independent body, the National Nuclear Management and Control Agency (NNCA) in October 2004.

- The ROK maintains an effective control and management system for chemical weapon-related chemicals, establishing a national licensing system for the production of chemicals included in Schedule 1 of the Chemical Weapons Convention (CWC) and the implementation of reporting requirements for all chemicals included in the CWC Schedules.

- The Act on the Prevention of Contagious Diseases establishes a reporting requirement for any pathogens of contagious diseases separated from patients affected by contagious diseases. The reporting agency concerned shall comply with any request from the Korea Center for Disease Control and Prevention for the provision of such cooperation as necessary for the preservation and control of the separated pathogens.

- In accordance with the Act on the Management of Military Supplies, the government of the ROK maintains an effective management and control system, including through the monitoring of the amount of material, managing of items in stock, and carrying out of physical protection measures for materials in production, use, storage or transport.

Planned Actions:

The ROK is planning to enact a law prescribing the reporting and inspection of manufacturing and production facilities of biological weapon-related materials with a view to establishing a comprehensive and systematic control and management system.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

- The Korean Customs, Police, Maritime Police, and Immigration authorities maintain effective border controls and law enforcement to detect, deter, prevent and combat illicit trafficking and brokering in WMD-related items.

- In accordance with the Customs Act, the Commissioner of the Korean Customs Service and the heads of custom offices have the power to restrict the importation and exportation of certain items when they deem it necessary for inspection or surveillance purposes. The customs officers can inspect inbound and outbound or return goods.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

Actions Taken:

- The Korean government is effectively implementing export controls through such measures as strict controls over end-users of concern, as well as the imposition of criminal or civil penalties for violators of the Foreign Trade Act and its Enforcement Decree, and Public Notice on Export /Import of Strategic Items.

- The government implements export controls in accordance with the multilateral export control regimes, such as the Nuclear Suppliers Group (NSG), Zangger

Committee (ZC), Australia Group (AG), Wassenaar Arrangement (WA), and Missile Technology Control Regime (MTCR) by incorporating their guidelines and control lists into national legislation.

- The government has introduced a catch-all system since January 1, 2003 in order to strengthen export controls for dual-use items which may be used in the development of WMD.

- Other recent measures that the government of the ROK took to strengthen export controls on strategic items are as follows. The government of the ROK:

  - Stipulated new provisions under Article 50 of the Foreign Trade Act, if necessary, to order exporters of strategic items to file a report and to have relevant officials conduct an inspection of the report in September 2003.

  - Has undertaken to establish links between the control lists of the multilateral export control regimes and HS (Harmonized Commodity Description and Coding System) since December 2003.

  - Established, in the Ministry of Commerce, Industry and Energy (MOCIE), the Strategic Items Control Division which is responsible for strategic export control policy in February 2004.

  - Formed the Technical Advisory Group on Strategic Items in May 2004.

  - Inaugurated the Strategic Trade Information Center to carry out the determination of strategic items, the operation of the information management system and the distribution of a corporate compliance program in August 2004.

Planned Actions:

- The government of the ROK plans to update and amend the Foreign Trade Act with a view to strengthening the controls on brokerage, trans-shipment, financing and service.

- The government of the ROK plans to develop and distribute a corporate compliance program.

- The government of the ROK plans to establish an Export/Import Management System for Strategic Items.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons

As a party to the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC), and the Biological and Toxin Weapons Convention (BWC), the Republic of Korea is actively participating in the work of the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW) to prevent the proliferation of nuclear weapons and chemical weapons.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Actions Taken:

- The ROK strives to further reinforce export controls in light of their importance for preventing the proliferation of WMD.

- The ROK government faithfully reflects the control items under the multilateral export control regimes, namely the NSG, ZC, AG, MTCR, and WA, in national legislation, and maintains and updates the list of controlled items for the sake of effective export controls.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

- The Republic of Korea, within its capacity, will participate in regional- and international-level cooperation to achieve the effective implementation of this Resolution.

- The ROK will host, in cooperation with the Technical Secretariat of the OPCW, the first training course in the Asia-Pacific region on protection and assistance against chemical weapons in May 2005.

Operative Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening or multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

- The Republic of Korea has been faithfully implementing its obligations under the NPT, CTBT, BWC, and CWC to which it is a state party. It has also been an active participant in international efforts to strengthen and universalize those conventions and will continue to play an active part.

- Some examples of the ROK's contribution to this end are as follows. The Republic of Korea:

  - Played a leading role in the adoption of the "Recommendation on Ensuring the Universality of the Chemical Weapons Convention" since the 2nd Conference of the State Parties in 1997.

  - Contributed in the discussions, sending experts to the BWC meetings for the sake of enhancing international verification capabilities.

  - Participated in the 1st and 2nd Ministerial Meetings the purpose of which was to facilitate the early entry into force of the Comprehensive Nuclear-Test-Ban-Treaty (CTBT) in 2001 and 2004 respectively.

  - Became the 39th country in the world to ratify the IAEA Additional Protocol which has been regarded as the new international standard for nuclear verification.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

The ROK has been in full compliance with its commitments under the key multilateral non-proliferation treaties.

(c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as

important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

- The ROK, both as a state party and a member of the Board of Governors, has been and will continue to be supportive of the aims and activities of the IAEA. In particular, the ROK actively participates in the efforts of the IAEA to strengthen its safeguards system, including the Additional Protocol, and also in various technical cooperation projects to promote the peaceful uses of nuclear energy.

- As a state party to the CWC and a member of the Executive Council, the ROK reaffirms its strong commitment to playing a constructive role in fulfilling the objectives and purposes of the Convention. In particular, the ROK places priority on the two Action Plans, one for the universality of the Convention and the other for the full implementation of the Article VII obligations.

- As a state party to the BTWC, the ROK has supported strengthening the verification aspects of the Convention and will continue to do so.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws.

Actions Taken:

- The government of the Republic of Korea continues to make efforts to raise public awareness of the obligations set out in the international non-proliferation arrangements through seminars and news coverage.

- The Korean government held conferences to explain export control system for strategic items to relevant enterprises and organizations in February and July 2004.

- The Korean government cohosted a seminar with the Korean Bioindustry Association in May 2004 to explain recent developments on the BWC negotiations to relevant enterprises and organization.

Operative Paragraphs 9, 10

9. Calls upon all States to promote dialogue and cooperation on non- proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take

cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

- The Republic of Korea has contributed, and will continue to contribute to the promotion of dialogue and cooperation to address the threat posed by the proliferation of WMD and also to cooperative action to prevent illicit trafficking in WMD, their means of delivery, and related materials.

- Some examples of the ROK's contribution to this end are as follows. The Republic of Korea:

- Has held an international conference on arms control and non-proliferation now termed the "Jeju Process" on Jeju Island in Korea since 2001;

- Joined the "Global Partnership against the Spread of Weapons and Materials of Mass Destruction", which is a global cooperative project to tackle the proliferation of WMD, during the 2004 G-8 Summit held on Sea Island in the United States in June 2004;

- Has greatly contributed to the strengthening of nuclear export controls by hosting the Plenary of the Nuclear Suppliers Group (NSG) in 2003 in Korea and discharging its duties as the chair country of the NSG for 2003-2004;

- Hosted the Plenary of the Missile Technology Control Regime in Seoul in October 2004 and, as chair country for the coming year, will do its best to promote dialogue and cooperation to advance the goals of missile non-proliferation;

- Pronounced the "Four Principles for the Peaceful Use of Nuclear Energy" on September 2004 to renew and reaffirm its principle of nuclear non-proliferation and peaceful use of nuclear energy when the incident of past nuclear experiments arose. With the Four Principles, it has underlined that the ROK : has no intention of developing or possessing nuclear weapons ; firmly maintains the principle of nuclear transparency and will strengthen cooperation with the international community to this end; will abide by international agreements on nuclear non-proliferation; and will expand the peaceful use of nuclear energy on the basis of international confidence.

United Nations S/AC.44/2004/(02)/25

Security Council

Distr.: General
2 November 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the report of the Government of the Republic of Hungary in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

04-59033 (E) 131204

Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

National report of the Republic of Hungary on the implementation of UNSCR 1540

1. The unanimous adoption of Security Council Resolution 1540 (2004) on 28 April 2004 was an historic event. This was the first Security Council resolution to address the threat that proliferation of weapons of mass destruction and their means of delivery, in particular by non-state actors, poses to international peace and security.

2. The Republic of Hungary has already taken a range of legislative and executive measures that ensure compliance with UNSCR 1540. Hungary continuously reviews its policies, with a view to establishing what further measures may be necessary.

3. The Republic of Hungary is also fully committed to the work of the 1540 Committee in ensuring global implementation of this resolution, including – where appropriate – through providing assistance or advice to others.

4. As the Republic of Hungary is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

Legislative action

5. The Republic of Hungary has a wide range of legislative measures in place to prevent the proliferation of WMD, including by non-state actors. The centrepieces of this legislative framework are Law-Decree 12/1970 on NPT, Government Decree 11/1975 on BTWC, Government Decree 104/1997 on CWC, Government Decree 16/2004 on the licensing of the export, import, transfer and transit of military equipment and technical assistance, Government Decree 50/2004 on the licensing of foreign trade in dual-use goods and technologies, and Government Decree 263/2004 on the control of nuclear related dual use items.

6. Detailed responses as to how Hungary's legislative framework relates to specific issues contained in SCR 1540 are set out below.

Executive action

7. The Inter-ministerial Committee on the Foreign Trade in Military Equipment (ICTME) sets policy relating to the licensing of international trade in military equipment and technical assistance. The Inter-ministerial Committee on Non-Proliferation (ICNP) is responsible for actions to be put into effect Hungary's commitments undertaken in non-proliferation treaties, regimes and various international initiatives. Among its other functions, the ICNP discusses and forms an opinion of non-proliferation related issues and provides guidance on priorities for the work of individual ministries.

8. The ICNP will oversee the implementation of UNSCR1540.

Enforcement action

9. Action to enforce export controls is co-ordinated and implemented by the following bodies and authorities:

   The Committee on Licensing of Foreign Trade in Military Equipment is a mid-level executive group. It is chaired by the head of the Hungarian Trade Licensing Office and includes representatives from a wide range of departments and agencies.

   The Inter-ministerial Committee on Non-proliferation is responsible for the review and co-ordination of the enforcement and practical implementation of Hungary's international non-proliferation commitments.

   The Proliferation Security Initiative Committee is an expert level group co-chaired by the Ministry of Foreign Affairs and the Hungarian Trade Licensing Office. It co-ordinates the implementation of the Proliferation Security Initiative at the national level and the participation of the Republic of Hungary in international exercises organised in the framework of the PSI.

10. The Hungarian Trade Licensing Office is the licensing authority in Hungary, which through two separate directorates issues licenses to trade in conventional military equipment and technology, as well as in dual use goods, including transit and brokering activities.

11. The Customs and Finance Guard of the Republic of Hungary have lead responsibility for preventing the import and export of unlicensed goods, investigating offences, and taking appropriate action.

Encouraging compliance

12. To complement the enforcement effort, the Hungarian Trade Licensing Office undertakes regular compliance visits to Hungarian producers, exporters and academic institutes to ensure that they understand the relevant export controls, are operating within the terms

of their licences and are aware of the risks of the transfer of results of research on nuclear, chemical, biological and dual-use technology.

In the European Union

13. The Republic of Hungary has worked to help establish effective policies within the European Union (EU) to prevent WMD proliferation, and will continue to do so. The Thessaloniki European Council in June 2003 agreed that preventing the proliferation of WMD should be a priority for the Union, both internally and in its relations with third countries, and agreed an Action Plan for addressing the issue. For example, in November 2003 the EU agreed a model non-proliferation clause to be included in all future EU-third country mixed agreements.

14. The European Council in December 2003 approved a Strategy for preventing the proliferation of WMD, which the EU is in the process of implementing.

International instruments

15. The Republic of Hungary is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as the Chemical Weapons Convention (CWC), and the Biological and Toxin Weapons Convention (BTWC).

16. Hungary has adopted an Additional Protocol to its IAEA Safeguards Agreement. The Additional Protocol entered into force in Hungary in 1999.

17. In addition, Hungary is a member of the following export control regimes: Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), Zangger Committee, the Australia Group, and the Wassenaar Arrangement. The export control regimes play an important role in agreeing control lists and raising international standards of export controls. Hungary is also a signatory to the Hague Code of Conduct on Ballistic Missiles.

18. Since September 2001, the Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), the Australia Group, and the Wassenaar Arrangement have all formally adopted 'terrorism clauses' to deny terrorists access to the items they control. These export control regimes have followed up with increased exchanges to improve awareness of possible procurement attempts by terrorists.

19. Hungary lent its full support to the aims of the Proliferation Security Initiative (PSI) early on and has taken part in practical exercises organised within that framework. The PSI aims to help prevent trafficking in WMD and related material, by both state and non-state actors. The PSI Statement of Interdiction Principles, agreed at Paris on 4 September 2003, makes clear that all action will be consistent with national legislations and international legal frameworks.

20. Hungary encourages all states to align themselves with the purposes and instruments of these regimes and initiatives.

Technical Assistance to Other States

21. The Republic of Hungary recognises that some states may require assistance in implementing the provisions of this resolution within their territories. Hungary is willing to provide assistance as appropriate to the states lacking the legal and regulatory infrastructure, implementation experience needed to fulfil the provisions of UNSCR1540.

22. The Republic of Hungary has participated in outreach programmes of the international export control regimes. Hungarian experts have carried out outreach visits to several states. These visits have allowed to address issues connected with effective implementation of export controls, and provide advice on tackling the problems of transition in particular, and assistance where required.

Comments in relation to the specific issues contained in UNSCR 1540

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

The Government of Hungary is fully committed to this principle and does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Action taken:

- Obligations under NPT, CWC and BTWC have been incorporated in Hungarian legislation.

- The Hungarian licensing system includes provision to control imports too and is continuously reviewed.

- Penal Code paragraph 261/A establishes the offence of violation of laws and regulations that have been adopted in connection with international legal obligations of the Republic of Hungary. Preparation to violate is punishable by imprisonment up to three years; the factual violation is punishable up to five years and up to eight years if committed by a person holding public office. The maximum imprisonment can be ten years if the violation is connected to military goods or technology.

- Penal Code paragraph 287 establishes the offence of violation of trade control regulations. Any person knowingly involved in the supply or delivery of any internationally controlled goods or technologies with intent to evade any prohibition or restriction in

Government Decree 50/2004 or Government Decree 16/2004 shall be guilty of an offence and shall be liable to imprisonment up to fifteen years.

- According to the above paragraph it is also a violation if an end user processes the imported goods differently than as declared in the End User Certificate or in the International Import License.

Planned action:

- Hungary is considering what further action may be necessary.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Action taken:

- The legal framework for an IAEA compatible record keeping system of nuclear material was established in Hungary in 1971.
- Government Decree 39/1997 on the System of Accounting for and the International Control of Nuclear Materials and the Jurisdiction of Certain Authorities made modifications to further improve the efficiency of record keeping and ensure compliance with the IAEA Safeguards Agreement signed in 1972.
  Under Government Decree 39/1997 every organization possessing nuclear material shall keep operating records of all nuclear materials. All movements of nuclear material is recorded and produced to permit for accounting of these materials. An inventory of records takes place once a year.
- As of 1 May, 2004 Hungary as member of the EU is abided by Community regulation COM(2002)99 (previously 3227/76) on the application of safeguards.
- The Hungarian Atomic Energy Authority is responsible for obtaining and verifying records.
- In addition, a special legislative measure has been introduced on central and local record keeping of radioactive material in 2004, Decree 33/2004 issued by the Ministry of Interior. The decree is in conformity with Euratom Directive 2003/122 on controls of high activity radioactive sources.

Planned action:

- Hungary is considering what further action may be necessary.

(b) Develop and maintain appropriate effective physical protection measures;

Action taken:

- Hungary has established a national licensing system for the production, possession, and use of chemicals included in Schedule 1 of the CWC

- Hungary implements reporting requirements for all chemicals included in the Schedules of the CWC.

- Hungary implements the European Union Regulation 1334/2000 for the control of exports of dual-use items (including software and technology).

- Since 1 May 2004 Hungary has been party to the Treaty Establishing the European Atomic Energy Community (Euratom), chapter 7 of which concerns nuclear safeguards. These safeguards are implemented by the European Commission, which is tasked under the Treaty with satisfying itself that civil nuclear material in Hungary is not diverted from declared use.

- At the national level, the Hungarian Atomic Energy Authority, in co-operation with technical support institutes, carries out verification of all nuclear related material. Inspectors of the IAEA have regularly carried out verifications of national records since 1999. Since Hungary's accession to the Euratom in 2004, inspectors of the Community also have access to Hungarian data and facilities.

- Part of the Euratom requirement is that operating records must be kept and produced in order to permit for accounting of these materials. The detailed record keeping requirements are set out in a Regulation made by the Commission and approved by the Council (currently Commission Regulation (Euratom) No. 3227/76), which acts directly in Hungary.

- The Commission maintains an inspectorate (currently part of the Directorate General for Energy and Transport), which is responsible for obtaining and verifying these records. Hungary submits its nuclear material accountancy reports to this inspectorate and Commission inspectors are given access to all places, data and persons in Hungary to the extent necessary to verify these and hence be able to ensure that Hungary is compliant with the non-diversion provision.

- In 1998 Hungary signed and subsequently enacted (Act XC/1999) an Additional Protocol to the IAEA Safeguards Agreement. The Act establishes a national record system and data control for long-term plans, research and development, as well as for manufacturing and export-import activities related to nuclear fuel cycles, sites and other facilities. Hungary submits its declarations to the IAEA under the Additional Protocol based on the national record system.

- Hungary has launched a support program aimed to help strengthen the IAEA's safeguards system. Several measuring devices have already been developed for the detection of fissile content of nuclear material as a result of this programme.

Planned action:

- Hungary is considering what further action may be necessary.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action taken:

- European Community Customs Code (EC2913/92) article 14 empowers Customs to require information in relation to goods imported or exported.

- Act on Hungarian Customs and Finance Guard 2004/XIX. paragraph 5 authorizes Customs to stop and search vehicles/vessels on suspicion of carrying prohibited goods.

- Act on Hungarian Customs and Finance Guard 2004/XIX. paragraph 5 and European Community Customs Code (EC2913/92) article 68, b) section empower Customs to examine goods and take samples for the purpose of verifying customs declaration.

- Act on Hungarian Customs and Finance Guard 2004/XIX. paragraph 5 stipulates Customs powers of arrest.

- Under Penal Code paragraph 287 export/import, attempted export/import, including transit of controlled items without a license issued by the relevant authority is a criminal offence and therefore subject to imprisonment of maximum 15 years.

- Hungarian Customs and Finance Guard – with the assistance of EU's PHARE Program and the Ministry of Environment and Water - has developed a programme for the detection of dangerous materials. As a result of this programme, all border crossing

points have been equipped with stationary monitoring systems, personal radiation monitors and portable survey meters. In addition, 39 stationary monitoring systems, i.e. radiation detector gates, covering all international border crossings have been installed to control the flow of international freight traffic. (This programme provides the capability to routinely screen all forms of traffic at the Hungarian points of entry and departure for the illicit movement of radioactive materials.)

- Government Decree 17/1996 sets out co-ordinating procedures for authorities involved in detection, confiscation and verification of illegal possession of and/or trafficking in nuclear and radioactive materials.

Planned action:

- In the light of recent developments in the Hungarian export control system, the Hungarian Customs and Finance Guard analyses its internal regulations and mechanisms to further enhance the effectiveness of the controls of foreign trade in arms and dual-use items.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Action taken:

- Government Decree 263/2004 on the control of nuclear and nuclear related dual use items regulates licensing procedures for the export, import and transit of nuclear material and nuclear dual use items. All applications are registered and assessed on a case-by-case basis. Licences for these types of goods are issued with the prior consent of the Hungarian Atomic Energy Authority.

- EC Dual-Use Items Regulation (EC) 1334/2000 is applied.

- Government Decree 50/2004 authorises the Hungarian Trade Licensing Office to implement Regulation (EC) 1334/2000 of the European Community, which establishes a Community regime for the control of exports of dual-use items and technology. The Government Decree regulates the import of dual-use items and technology, too, from outside the territory of the European Community to the territory of the Republic of Hungary.

- Act XIX/2004 on Hungarian Customs and Finance Guard. (Various provisions quoted under relevant point.)
- Community Customs Code (EC Regulation 2913/92) is in effect.
- Government Decree 16/2004 on the licensing of the export, import, transfer and transit of military equipment and technical assistance entered into force on Hungary's accession day to the European Union, i.e. on the 1st of May 2004. The new legislation does not change the substance of the Hungarian licensing system. It remains of individual character, which means that „open" or „general" licences do not exist in the Hungarian export control system of conventional arms. The 3-tier licensing system is a very strict procedural sequence, where the listed stages are non-interchangeable.

- Under Government Decree 16/2004 a licence is required for arms brokering activities to avoid circumvention of UN, EU or OSCE embargoes or sanctions on arms exports, as well as of the Criteria set out in the European Union's Code of Conduct on Arms Exports.

- Government Decree 16/2004. (II.6.) takes into account the recommendations and Best Practice Guidelines of the relevant international organizations and the Common Position 2003/468/CFSP on the control of brokering adopted by the Council of the European Union on 23 June 2003.

- Penal Code paragraph 261/A establishes the offence of violation of laws and regulations that have been adopted in connection with international legal obligations of the Republic of Hungary. Preparation to violate is punishable by imprisonment up to three years; the factual violation is punishable up to five years and up to eight years if committed by a person holding public office. The maximum imprisonment can be ten years if the violation is connected to military goods or technology.

- Penal Code paragraph 287 establishes the offence of violation of trade control regulations. Any person knowingly involved in the supply or delivery of any internationally controlled goods and technologies with intent to evade any prohibition or restriction in Government Decree 50/2004 or Government Decree 16/2004 shall be guilty of an offence and shall be liable to imprisonment up to fifteen years.

- According to the above paragraph it is also a violation if an end user processes the imported goods differently than as declared in the End User Certificate or in the International Import License.

- <u>Planned action:</u>

- None at present, since both Government Decrees are new and have recently entered into force. Nevertheless all actors involved in licensing procedures continue to analyse their internal mechanisms and the functioning of the entire system to identify whether any additional measures may be required.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

Hungary is a state party to the Nuclear Non-Proliferation Treaty (NPT); the Chemical Weapons Convention (CWC); and the Biological and Toxin Weapons Convention (BTWC). Hungary is also an active member of the IAEA and OPCW, and is active in the continuing work by States Parties to strengthen implementation of the BTWC.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Action taken:

- Hungary is a strong supporter of effective multilateral export control regimes, and is working to raise international standards. Hungary is an active member of the Nuclear Suppliers' Group, the Australia Group, the Missile Technology Control Regime, the Zangger Committee, and the Wassenaar Arrangement. Control lists of the above regimes are incorporated in the relevant national regulations. Hungary maintains and regularly updates its national export control lists.

Planned action:

- Hungary continues to work to ensure that the multilateral export control regimes respond in a timely fashion to developments.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking

the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Hungary recognises that some States may require assistance in implementing the provisions of this resolution within their territories.

Hungary is ready to share its experiences of developing and maintaining effective controls over nuclear, biological, chemical as well as dual use goods and technologies.

Operative Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action taken:

- Participation in the implementation of EU Common Position, November 2003, on the universalisation of the main multilateral non-proliferation agreements (CWC, BTWC, NPT)
- Support to consider the Additional Protocol as a condition of supply: EU lobbying for universalisation of CSA and Additional Protocol
- Support to include the Model non-proliferation clause in EU-third country mixed agreements

Planned action:

- Hungary will continue to promote the universal adoption and full implementation, and strengthening of multilateral treaties whose aim is to prevent the proliferation of nuclear, biological or chemical weapons.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Action taken:

- Law-Decree 12/1970 on Hungary's ratification of the NPT.
- Law-Decree 9/1972 on the conclusion of a safeguards agreement between Hungary and the IAEA.
- Act XC/1999 on the conclusion of an Additional Protocol (signed in 1998) for the application of the safeguards agreement between Hungary and the IAEA.
- Law-Decree 11/1975 on Hungary's ratification of the BTWC
- Act 104/1997 on Hungary's ratification of the CWC
- Government Decree 50/2004 on Licensing of Foreign Trade in Dual-Use Goods and Technologies.
- Government Decree 263/2004 on the control of nuclear related dual use items.

Planned action:

- The Government of Hungary believes that it is already in full compliance with its commitments under the key multilateral non-proliferation treaties. No further action is currently foreseen.

-

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Action taken:

- Hungary continues to provide full support for the aims and activities of the IAEA, both as a state party and currently also as member of the Board of Governors.

- Hungary launched a Support Programme aimed to strengthen the IAEA's safeguards system.

- Hungary also took active part in the IAEA's 93+2 programme to enhance the effectiveness and cost-efficiency of the safeguards system.

- Hungary continues to provide full support for the aims and activities of the OPCW, both as a state party and in special periods when a member of the Executive Council (e.g. between 2001-03).

- Hungary is also fully committed to strengthening the BWTC. Hungary actively participated in the development of a "follow up process" to promote negotiations on the advancement of a verification process for the convention.

Planned action:

- None at present.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Action taken:

- Close working relationship with industry, established through government/industry committees, awareness raising seminars and workshops.

- The Government of Hungary provides advice and assistance to industry and academia in meeting their obligations stemming from Hungary's international treaty obligations.

- Information is regularly disseminated through government websites, publications and leaflets.

- The Government encourages and supports to include non-proliferation issues in curricula.

- Hungary participates in the implementation of the EU WMD Strategy the overall aim of which is to promote the fight against proliferation of weapons of mass destruction and their means of delivery.

Planned action:

- None at present.

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Hungary continues to promote dialogue and co-operation on non-proliferation in a range of fora so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Action taken:

- Hungary maintains regular and direct contact with other states and their respective authorities and works together with them to achieve the aims of UNSCR 1540.

- Hungary is committed to the aims of the Proliferation Security Initiative (PSI) and actively participates in co-operative actions and exercises organised in that framework.

Planned action:

- Hungary is still considering what further action may be necessary